

# TRANSCRIPT OF RECORD

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1912

No. 543166.

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INTERNATIONAL HARVESTER COMPANY OF AMERICA  
PLAINTIFF IN ERROR

THE STATE OF MISSOURI ON THE INFORMATION OF  
ITS ATTORNEY GENERAL

---

ON WRIT TO THE SUPREME COURT OF THE STATE OF MISSOURI

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FILED: JANUARY 16, 1913.

(23,010.)



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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1912.

No. 518.

INTERNATIONAL HARVESTER COMPANY OF AMERICA,  
PLAINTIFF IN ERROR,

vs.

THE STATE OF MISSOURI ON THE INFORMATION OF  
ITS ATTORNEY GENERAL.

IN ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.

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IN THE

# Supreme Court of Missouri

EN BANC.

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STATE OF MISSOURI ON THE RELATION OF ELLIOTT W.  
MAJOR, ATTORNEY-GENERAL, Relator,

vs.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, A  
CORPORATION, Respondent.

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QUO WARRANTO.

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ABSTRACT OF RECORD AND TRANSCRIPT OF EVIDENCE  
TAKEN BEFORE HONORABLE THEODORE BRACE,  
SPECIAL COMMISSIONER.

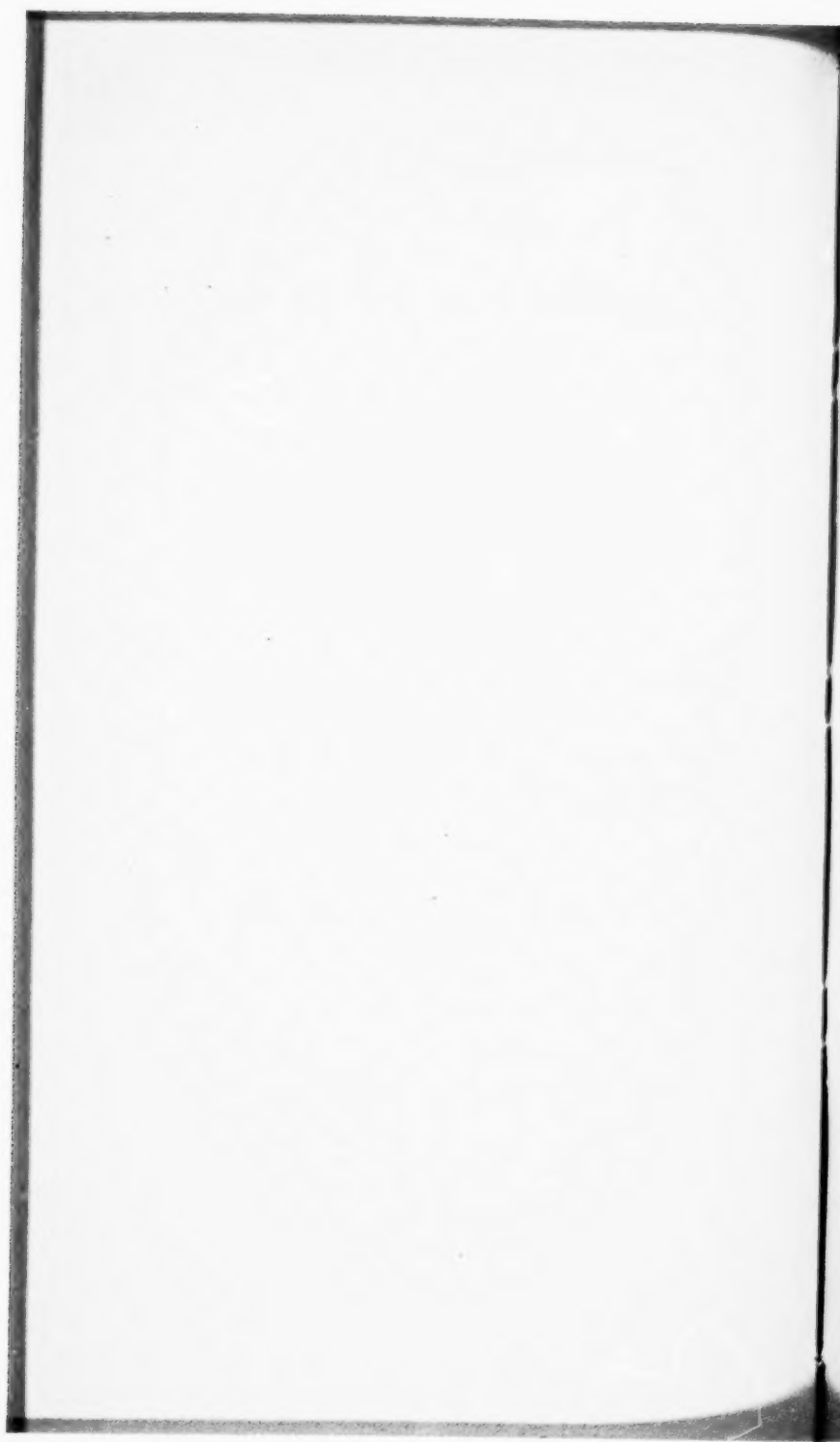
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IN THE SUPREME COURT OF MISSOURI.

---

COURT EN BANC.

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OCTOBER TERM, 1907.

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STATE OF MISSOURI, ON THE RELATION OF HERBERT S.  
HADLEY, Attorney-General,

vs.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, A  
CORPORATION, Respondent.

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INFORMATION IN QUO WARRANTO.

Comes now the State of Missouri, by Herbert S. Hadley, Attorney-General, who, in this behalf, prosecutes for and in the name of the State, and informs the Court that the International Harvester Company of America is a corporation, duly organized and existing under the laws of the state of Wisconsin, and engaged in the manufacture and sale of agricultural implements, tools and machinery and materials used therewith; that upon April 5, 1892, said International Harvester Company of America, was duly authorized and licensed to do business in the State of Missouri as a foreign corporation, under the name of the Milwaukee Harvester Company; that thereafter, its name was changed to the International Harvester Company of America, and since on or about the 18th day of September, 1902, said respondent has, under the name of the International Harvester Company of America, been licensed to and engaged in the business of manufacturing and selling farm implements, tools and machinery in the State of Missouri.

That the McCormick Harvesting Machine Company is a corporation, organized and existing under the laws of the State of Illinois, for the purpose of engaging in the manufacture and sale of agricultural implements, tools and machinery, and was upon the 5th day of October, 1891, duly authorized and licensed as a foreign corporation, to engage in said business in the State of Missouri, and thereafter, and up to about the 18th day of September, 1902, did engage in the business of manufacturing and selling agricultural implements, tools and machinery in the State of Missouri.

That the Plano Manufacturing Company is a corporation duly organized and existing under the laws of the State of Illinois, for the purpose of engaging in the business of manufacturing and selling agricultural implements, tools and machinery, and was duly authorized and licensed, on the 11th day of February, 1892, as a foreign corporation, to do business in the State of Missouri, and that from said date up until about the 18th day of September, 1902, said company did engage in the business of manufacturing and selling agricultural implements, tools and machinery in the State of Missouri.

That the Warder, Bushnell & Glessner Company is a corporation, duly organized and existing under the laws of the State of Ohio, for the purpose of engaging in the business of manufacturing and selling agricultural implements, tools and machinery, and was duly authorized and licensed on the 29th day of August, 1891, as a foreign corporation, to do business in the State of Missouri, and that from said date up until about the 18th day of September, 1902, said company did engage in the business of manufacturing and selling agricultural implements, tools and machinery in the State of Missouri.

That D. M. Osborne & Company is a corporation, duly organized and licensed, under the laws of the State of New York, for the purpose of engaging in the business of manufacturing and selling agricultural implements, tools and machinery, and was duly authorized and licensed on the 28th day of September, 1891, as a foreign corporation, to do business in the State of Missouri, and that from said date up until about the 18th day of September, 1902, said company did engage in the business of manufacturing and selling agricultural implements, tools and machinery in the State of Missouri.

That Aultman, Miller & Company is a corporation, duly organized and existing under the laws of the State of New York, for the purpose of engaging in the business of manufacturing and selling agricultural implements, tools and machinery, and was duly authorized and licensed on the 6th day of August, 1891, as a foreign corporation, to do business in the State of Missouri, and that from said date up until about the 18th day of September, 1902, said company did engage in the business of manufacturing and selling agricultural implements, tools and machinery in the State of Missouri.

That from the time each and all of said companies were duly authorized and licensed to do business in the State of Missouri, and up until on or about the 18th of September, 1902, they continued to engage in the manufacturing and sale of agricultural implements, tools and machinery in the State of Missouri as legitimate competitors with

each other, and other corporations, individuals and partnerships engaged in the same business in the State of Missouri, and that thereby the people of the State, particularly the retail dealers and the farmers of the State, received the benefit of competition in the purchase and sale of farm implements, tools and machinery; that on or about the 12th day of August, 1902, there was organized in the State of New Jersey, as a corporation of that State, the International Harvester Company, with a capital stock of \$120,000,000, and said company was by its charter, authorized to engage in the manufacture and sale of all kinds of farm implements, tools and machinery; that said International Harvester Company was organized under the laws of the State of New Jersey for the purpose of effecting a combination, pool, trust, agreement, understanding and arrangement of the corporations hereinbefore referred to, and other corporations engaged in the same business in other states, for the purpose of restraining trade and competition in the manufacture, purchase and sale of agricultural implements, tools and machinery in this State; for the purpose of regulating, controlling, fixing and maintaining the price of agricultural implements, tools and machinery sold and offered for sale in this State; for the purpose of limiting and fixing the amount and quantity of agricultural implements, tools and machinery sold and offered for sale in this State, and said pool, trust, combination and understanding into which said corporations thus entered, became members of and participated, was designed and made with a view to increase, and tended to increase, the market price of agricultural implements, tools and machinery sold and offered for sale in this State; was designed and made with a view to lessen, and tended to lessen free competition in this State in the manufacture, purchase and sale of agricultural implements, tools and machinery; that shortly after the organization of said International Harvester Company of New Jersey, and in furtherance of the unlawful purposes aforesaid, it pretended to purchase and did acquire and come into the control of the capital stock and assets of all of said corporations, which had previously been engaged in the State of Missouri as legitimate competitors in the manufacture, purchase and sale of farm implements, tools and machinery; that said pretended sale and transfer of the capital stock and assets of said corporations to the International Harvester Company of New Jersey was accomplished by said International Harvester Company of New Jersey, paying for the assets and stock of the several corporations in stock issued by said International Harvester Company of New Jersey, and the stockholders of the corporations hereinbefore referred to, doing business in the State of Missouri, became stockholders, directors and officers of said International Harvester Company of New Jersey; that the transfers by said corporations doing business in the State of Missouri of their stock and assets to the International Harvester Company of New Jersey were effected on or about the 18th of September, 1902, on which date, and in which manner said corporations entered into and became members of said pool, trust, combination and agreement for the unlawful purposes heretofore stated; that as a part of the plan of said pool, trust, combination and agreement, and in furtherance

of the unlawful purposes thereof, the business and assets of the McCormick Harvesting Machine Company, Plano Manufacturing Company, Warder, Bushnell & Glessner Company, D. M. Osborne & Company, and Aultman, Miller & Company in the State of Missouri, were in a short time after the 18th of September, 1902, transferred to the International Harvester Company of America, and said McCormick Harvesting Machine Company, Plano Manufacturing Company, Warder, Bushnell & Glessner Company, D. M. Osborne & Company and Aultman, Miller & Company in a short time thereafter ceased to do business in the State of Missouri and cancelled and surrendered their licenses to do business in the State of Missouri; that by virtue of the formation of the pool, trust, combination and agreement of the corporation herein named, through the organization of said International Harvester Company of New Jersey and its pretended purchase of their stock and assets, said International Harvester Company of New Jersey secured the right to manufacture and sell all the agricultural implements, tools and machinery, under the various patents and devices, theretofore manufactured and sold by said several corporations which were authorized to and engaged in business in this State; that since the formation of said pool, trust, combination and agreement as aforesaid, and in the furtherance and by reason thereof, the International Harvester Company of New Jersey has maintained the existence and continued the International Harvester Company of America in the business of selling agricultural implements, tools and machinery in this State, and said International Harvester Company of America has since acted as the sole agent in this State for the International Harvester Company of New Jersey in the sale of the agricultural implements, tools and machinery manufactured by it, and also those which prior thereto had been manufactured and sold by each of said other companies herein named; and said International Harvester Company of America, by reason of said pool, trust, combination and agreement, has bought and sold only the agricultural implements, tools and machinery manufactured by it and the International Harvester Company of New Jersey, and said International Harvester Company of New Jersey has, by virtue of said pool, trust, combination and agreement and the ownership of the stock of the International Harvester Company of America, controlled, conducted and directed all the business, affairs and operations in the State of Missouri and elsewhere of the International Harvester Company of America; that since the formation of said pool, trust, combination and agreement, as aforesaid, in furtherance thereof, and for the purpose of giving to said respondent, and the International Harvester Company of New Jersey a monopoly of the business of manufacturing and selling agricultural implements, tools and machinery in the State of Missouri, and for the purpose of preventing competition in the sale thereof, said respondent has compelled the retail dealers in each county of the State, who desire to handle and sell or act as agent for the sale of any of the agricultural implements, tools and machinery sold or handled by said respondent, to refrain from selling any agricultural implements, tools and machinery manufactured or sold by any competing



manufacturer or distributor which came into competition with the agricultural implements, tools and machinery sold and handled by respondent; that by virtue of said pool, trust, combination and agreement so organized as aforesaid, and by virtue of the exclusive contracts exacted and required from retail implement dealers in the State of Missouri by said respondent as aforesaid, competition in the manufacture, purchase and sale of agricultural implements, tools and machinery in the State of Missouri has been restrained, prices thereof have been controlled, fixed and maintained, the amount and quantity of agricultural implements, tools and machinery manufactured and sold in this State have been fixed and limited, the market price thereof has been increased and full and free competition in the manufacture, purchase and sale of agricultural implements, tools and machinery in the State of Missouri has been lessened and restrained so that said respondent has been able to secure, and for several years had enjoyed from 85 to 90 per cent of the business of manufacturing and selling agricultural implements, tools and machinery in this State; all to the great damage and loss of the people of Missouri.

That by reason of the participation by said respondent in the pool, trust, combination and agreement as herein stated, and by reason of the acts and things done by said respondent as herein set forth, said respondent has been guilty of an illegal, wilful and malicious perversion and abuse of the franchises, privileges, license and authority granted to it by the State of Missouri, and an illegal and unlawful usurpation of privileges, franchises and authorities not granted to it by the State of Missouri.

Wherefore, the Attorney-General, prosecuting in this behalf for the State, prays the consideration of the Court in the premises, and that the respondent may be excluded from all corporate rights, privileges and franchises exercised or enjoyed by it under the laws of the State of Missouri, and that its franchise, license and certificate to do business in this State be declared forfeited, and that all or such portion of its property, as the Court may deem proper, be confiscated unto the State, or in lieu thereof, a fine be imposed upon it in punishment of the perversion, usurpation, abuse and misuse of franchise, as herein described.

HERBERT S. HADLEY,

Attorney-General.

FRANK BLAKE,

Assistant Attorney-General.

And on the 12th day of November A. D., 1907, the Supreme Court of Missouri, Court en Banc, issued an order to the National Harvester Company of America, the respondent in the above entitled cause, to appear before the Supreme Court of Missouri En Banc, upon the 15th day of December, A. D., 1907, and to show by what warrant or authority it claimed to hold, use and exercise corporate rights, privileges and franchises under the laws of the State of Missouri, and why it should not be ousted from the rights, authority, license and certificate it had to do business under the laws of the State of Missouri. Said order to show cause being as follows:

IN THE SUPREME COURT OF MISSOURI, COURT EN BANC,  
OCTOBER TERM, 1907.

State of Missouri on the relation of Herbert S. Hadley, Attorney-General,

vs.

International Harvester Company of America, a Corporation, Respondent.

ORDER TO SHOW CAUSE.

To International Harvester Company of America, Respondent, Greeting:

WHEREAS, Herbert S. Hadley, Attorney-General of the State of Missouri, has filed an information in quo warranto, a copy of which is hereto attached and made a part hereof, charging that the above named respondent, International Harvester Company of America, is unlawfully abusing its rights and franchises and unlawfully usurping authorities and privileges as a corporation under the laws of Missouri by entering into and becoming a member of a pool, trust, combination, confederation, agreement and understanding, as therein charged and set forth, and asking that a writ of quo warranto issue directed to said respondent;

NOW, THEREFORE, you, the said respondent, International Harvester Company of America, are hereby commanded to be and appear before the Supreme Court of Missouri, en Banc, upon the 15th day of December A. D., 1907, and show by what warrant or authority you claim to hold, use and exercise corporate rights, privileges and franchises under the laws of the State of Missouri, and why you should not be ousted from the rights, authority, license and certificate to do business under the laws of the State of Missouri.

WITNESS my hand as clerk of the Supreme Court of the State of Missouri, and the seal of said court hereto affixed.

Done at my office in the City of Jefferson, county of Cole, State aforesaid, this 12th day of November A. D., 1907.

JNO. R. GREEN, Clerk

By O. T. JOHNSON, D. C.

And afterwards, on the \_\_\_\_\_ day of \_\_\_\_\_, 1908, the respondent, by its counsel, filed in the Supreme Court of Missouri,

Court En Banc, an answer to the information in quo warranto, as filed by Hon. Herbert S. Hadley, Attorney-General, on behalf of the State of Missouri, Informant, in the above entitled cause.

Said answer appearing in words and figures as follows, to-wit:

# ANSWER.

IN THE SUPREME COURT OF MISSOURI, COURT EN BANC,  
OCTOBER TERM, 1907.

State of Missouri, on the relation of Herbert S. Hadley, Attorney-General,

vs.

International Harvester Company of America, a Corporation, Respondent.

Comes now International Harvester Company of America, respondent in the above entitled cause, and for answer to the information in quo warranto filed against it, and for return to the order to show cause issued upon such information, respondent respectively shows to the court as follows:

## I.

That the International Harvester Company of America is a corporation, originally organized as Parker-Dennet Harvesting Machine Company (Limited), under the laws of the State of Wisconsin, on the 15th day of December, 1881, and is now existing by virtue of said organization and subsequent changes in its name and charter; and that it was licensed to do business in the State of Missouri as a foreign corporation on April 5th, 1892, under its then name of Milwaukee Harvester Company; that respondent, having complied with the statutes of said State authorizing foreign corporations to do business therein, and having paid the sum of seventy-six dollars and fifty cents (\$76.50), to the State of Missouri, the said State of Missouri did on the 5th day of April, 1892, in consideration of such payment and action on the part of respondent, agree and contract with respondent that respondent might engage in its business in the said State from said date until December 12th, 1931, and did by its license, issued under the seal of said State, authorize respondent to so carry on its business in the State aforesaid, a copy of which authority and contract is herewith attached and marked Exhibit "A," and that in pursuance and upon the faith of said license, franchise and contract, respondent has invested large sums of money, to wit, in excess of six thousand dollars, in the purchase of lands and buildings and other property in said State, for its use in conducting said business in said State of Missouri, and ever since said date, respondent has been engaged and is now engaged in conducting its business in the said State, as herein-after set out, and still owns and uses in its said business much of the property acquired as aforesaid; that said name of Milwaukee Harvester Company became its name on November 21st, 1884, and was

thereafter, on September 6th, 1902, duly changed to its present name, International Harvester Company of America; that it is not now manufacturing, and never has manufactured, any farm implements, tools or machinery in the State of Missouri, and it has not manufactured in any place, any of said articles for more than five years last past.

That respondent herein has at all times and in all acts, things and matters whatsoever, obeyed the laws of the State of Missouri and of the United States, and has not been in the past, nor is it now, guilty of any illegal, willful or malicious perversion or abuse of the franchise, privilege, license and authority granted to it by the State of Missouri, nor has it in the past usurped, as it charged in the information herein filed against it, nor is it now illegally or unlawfully usurping, any privileges, franchises, or authorities in the State of Missouri not granted to it by the State of Missouri; and of the legality and lawful authority of its corporate existence, business and conduct within the State of Missouri, respondent prays judgment of this Honorable Court. And in order that the court may be fully informed of the facts concerning which the information in quo warranto has been presented herein, respondent makes this answer and return, and further states:

## II.

That the allegations of this paragraph II, are not within the personal knowledge of respondent, but respondent is informed and believes, and for the purposes of this proceeding admits, and states on information and belief, that the McCormick Harvesting Machine Company is a corporation, and was organized and existing under and by virtue of the laws of the State of Illinois for the purpose of engaging in the manufacture and sale of agricultural implements, tools and machinery; and that on the 5th day of October, 1891, said McCormick Harvesting Machine Company was duly authorized and licensed as a foreign corporation to engage in said business in the State of Missouri, and that from said date up until on or about the 12th day of August, 1902, said McCormick Harvesting Machine Company did sell agricultural implements, tools and machinery to the State of Missouri; but that it did not at any time manufacture any such implements, tools or machinery in the State of Missouri.

## III.

That the allegations in this paragraph III, are not within the personal knowledge of respondent, but that respondent is informed and believes, and for the purposes of this proceeding admits, and states on information and belief, that the Plano Manufacturing Company is a corporation, and was duly organized and existing under the laws of the State of Illinois for the purpose of engaging in the business of manufacturing and selling agricultural implements, tools and machinery, and was duly authorized and licensed on the 11th day of February, 1892, as a foreign corporation to do business in the State of Mis-

souri, and that from said date up until on or about the 12th day of August, 1902, said The Plano Manufacturing Company did sell agricultural implements, tools and machinery, in the State of Missouri; but that it did not at any time manufacture any such implements, tools, or machinery in the State of Missouri.

## IV.

That the allegations in this paragraph IV, are not within the personal knowledge of respondent, but that respondent is informed and believes, and for the purposes of this proceeding admits, and states on information and belief that the Warder, Bushnell and Glessner Company is a corporation and was duly organized and existing under and by the laws of the State of Ohio for the purpose of engaging in the business of manufacturing and selling agricultural implements, tools and machinery, and was duly authorized and licensed on the 29th day of August, 1891, as a foreign corporation to do business in the State of Missouri, and that from said date up and until on or about the 12th day of August, 1902, said company did engage in the business of selling agricultural implements, tools and machinery in the State of Missouri; but that it did not at any time manufacture any such implements, tools or machinery in the State of Missouri.

## V.

That the allegations in this paragraph V, are not within the personal knowledge of respondent, but that respondent is informed and believes, and for the purpose of this proceeding admits, and states on information and belief that D. M. Osborne and Company is a corporation, and was duly organized and existing under and by the laws of the State of New York for the purpose of engaging in the business of manufacturing and selling agricultural implements, tools and machinery, and was duly authorized and licensed on the 28th day of September, 1891, as a foreign corporation to do business in the State of Missouri, and that from said date up until on or about December, 1904, said D. M. Osborne and Company did continuously engage in the business of selling agricultural implements, tools and machinery in the State of Missouri; but that it did not at any time manufacture any such implements, tools or machinery in the State of Missouri.

## VI.

That the allegations in this paragraph VI, are not within the personal knowledge of respondent, but that respondent is informed and believes, and for the purpose of this proceeding admits, and states on information and belief, that Aultman, Miller and Company was a corporation, duly organized and existing under by the laws of the State of Ohio for the purpose of engaging in the business of manufacturing and selling agricultural implements, tools and machinery, but was not a corporation of the State of New York, and it was duly authorized and licensed on or about the 6th day of August, 1891, as

a foreign corporation to do business in the State of Missouri, and that from said date up until its bankruptcy in 1903, it engaged in the business of selling agricultural implements, tools and machinery in the State of Missouri; but that it did not at any time manufacture any such implements, tools or machinery in the State of Missouri. That sometime prior to July, 1903, said Aultman, Miller and Company went into bankruptcy, and that afterward in said year of 1903, the trustee in said bankruptcy proceeding sold its manufacturing plant, property, product and business to the Aultman and Miller Buckeye Company, a corporation organized and existing under and by virtue of the laws of the State of Ohio.

## VII.

That the allegations in this paragraph VII, except so far as they relate directly to respondent herein, are not within the personal knowledge of respondent, but that respondent is informed and believes, and for the purposes of this proceeding admits, and states on information and belief, that respondent, and said McCormick Harvesting Machine Company, and said The Plano Manufacturing Company, and said The Warder, Buchnell and Glessner Company, and said D. M. Osborne and Company, and said Aultman, Miller and Company were competitors one with another, and with other corporations, individuals and partnership in the sale of agricultural implements, tools and machinery in the State of Missouri up to, on or about August 12th, 1902; that said D. M. Osborne and Company continued in said business in said State for some time after said August 12th, 1902, but has since ceased to engage in said business, and that said Aultman, Miller and Company continued to engage in said business in said state up to the time of its bankruptcy in the year 1903;

That on or about the 12th day of August, 1902, there was organized in the State of New Jersey, as a corporation of that state, the International Harvester Company with a capital stock of \$120,000,000.00, and that said company was by its charter authorized and licensed to engage in the manufacture and sale of all kinds of farm implements, tools and machinery; that said company was a new corporation, planned, organized and financed for the purpose of acquiring the materials, plants, manufacturing facilities, patent rights, and all other property and resources necessary or proper to enable it fully to carry out its corporate purposes of manufacturing and selling all kinds of farm implements, tools and machinery; that thereupon to accomplish its corporate purposes, said International Harvester Company of New Jersey, did on or about the 13th day of August, 1902, purchase from one William C. Lane of New York, all the manufacturing plants, properties, products and businesses which said Lane had theretofore purchased from the Milwaukee Harvester Company (respondent herein), the McCormick Harvesting Machine Company, The Plano Manufacturing Company and the Warder, Bushnell and Glessner Company, respectively, but not the capital stock of any of said companies, and that neither respondent herein nor the International



Harvester Company of New Jersey, has ever had any ownership of or interest in the capital stock of said companies, or of any of them, nor is the respondent nor the International Harvester Company of New Jersey in any way now interested in the capital stock of said companies or in any of them, except as respondent and said International Harvester Company of New Jersey, are connected together in the manner herein set out.

That said corporations have existed since the purchase by the International Harvester Company of New Jersey, of their physical properties as hereinbefore set out, as corporate entities, solely for the purpose of closing their business and of settling the accounts receivable and other matters of business between themselves and their customers, in which business neither the respondent nor the International Harvester Company of New Jersey has any interest whatsoever, and that none of said corporations now own or hold any of the stock of respondent or of the International Harvester Company of New Jersey, or have any connection with or control over either of said companies.

That afterwards, in December, 1904, said International Harvester Company of New Jersey, having first acquired control of the capital stock of the D. M. Osborne Company for the purpose of securing by purchase its physical properties, did purchase from said company all its products, materials, personal property and business, including its patent rights, and shortly thereafter in January, 1905, its manufacturing plants, and real property; and that on or about November, 1905, said International Harvester Company of New Jersey did purchase from the Aultman and Miller Buckeye Company, aforesaid, all its manufacturing plant, the property, products and business which had formerly been the manufacturing plant, property and business of Aultman, Miller and Company, but it did not purchase any of the capital stock of said Aultman and Miller Buckeye Company.

That none of the said purchases by the International Harvester Company of New Jersey, or the transactions above referred to in connection therewith, was made or occurred within said State of Missouri.

That said purchase by said International Harvester Company of the manufacturing plants, properties, products and business of respondent was paid for in cash, and that no one who was either an officer, director or stockholder of respondent prior to the 13th day of August, 1902, when said manufacturing plants and properties and business were acquired by said International Harvester Company of New Jersey, has ever become or is now an officer, director or stockholder of said International Harvester Company of New Jersey.

Respondent further states that said International Harvester Company of New Jersey, likewise purchased for cash, or its equivalent in negotiable notes, said manufacturing plants, properties, products, business and rights of said D. M. Osborne and Company, and of said Aultman and Miller Buckeye Company, respectively, and that no stock of said International Harvester Company was issued, paid or delivered, for or on account of the acquisition by said International

Harvester Company of New Jersey, of the property formerly belonging to respondent, or to D. M. Osborne and Company, or to Aultman, Miller and Company.

That nearly \$20,000,000.00 in cash was invested in said International Harvester Company of New Jersey, by persons who have never been in any way connected with any companies theretofore engaged in said business nor connected in any way with said business of manufacturing or selling agricultural implements, tools or machinery, and that such money was invested by them in said International Harvester Company of New Jersey, in the belief and with the purpose that the organization of such a corporation, which would acquire and operate large manufacturing plants for the production in great quantities, and for the sale in the United States and in foreign countries, of agricultural implements, tools and machinery, would be not only lawful and furnish a proper investment of funds, but also by its greater economies in production and distribution, would largely benefit the consumers of such articles, as well as the dealers therein.

That the manufacturing plants, properties, products, businesses and patent rights formerly owned by said McCormick Harvesting Company, The Plano Manufacturing Company, and the Warder, Bushnell and Glessner Company, were for the most part paid for by said International Harvester Company of New Jersey, in and with the capital stock of said company; that although each of said companies had a large number of stockholders, only three of the men who had prior to August, 1902, been connected with said McCormick Harvesting Machine Company, and only one who had prior to said date been connected with said Plano Manufacturing Company, and only one who had prior to August 12th, 1902, been connected with said Warder, Bushnell and Glessner Company, subsequently became connected and identified with said International Harvester Company of New Jersey, as its officers or directors; and that no person who was formerly a stockholder, an officer or a director of respondent, or of said D. M. Osborne and Company, or of said Aultman, Miller and Company, or of said Aultman and Miller Buckeye Company, is now, or has at any time been, an officer or director of said International Harvester Company of New Jersey.

That not one of said companies whose properties and businesses were acquired by said International Harvester Company of New Jersey, as aforesaid, is now engaged in the manufacture or (except respondent), in the sale of agricultural implements, tools or machines, or has any connection with, or is under the control of, either the respondent or said International Harvester Company of New Jersey.

That when said International Harvester Company of New Jersey, was formed with a capital stock of \$120,000,000.00, as aforesaid, its main purpose was the manufacture of agricultural implements, tools and machinery, and its large capitalization was necessary to furnish adequate facilities and resources for that purpose; but it was found not to be feasible for it to be also the distributor and jobber of its own manufactured products, for the reason, among others, that certain states wholly excluded from doing business therein corporations hav-

ing so large a capital stock, and other states imposed a license fee for the privilege of doing business therein, based upon the total amount of the capital stock of the corporation, and not upon the amount of capital invested within the state, so that the sum thus required to pay said license fees was often grossly out of proportion to the amount of capital invested and business transacted within such state and was sometimes as great as the entire profit of the business which such corporation might reasonably expect to earn within such state; that it was therefore determined by the directors and stockholders of the International Harvester Company of New Jersey, that said company would not engage in the business of distributing and jobbing its manufactured products, but would sell them to another corporation which would purchase said products and distribute the same to the consumers;

That this plan was first determined upon some weeks after the International Harvester Company of New Jersey, had acquired respondent's assets and property as aforesaid, but had not acquired its capital stock; and thereupon the stockholders and directors of said International Harvester Company of New Jersey, decided to organize a corporation having the power to conduct the business of selling agricultural implements, tools and machinery; and thereupon it was suggested to the stockholders and directors of said International Harvester Company of New Jersey, that respondent was then in existence as a corporate entity under the name of the Milwaukee Harvester Company, but without business or assets, and that it was already licensed and authorized to conduct the business of selling agricultural implements, tools and machinery in certain states, including the State of Missouri, and that its corporate organization and charter could economically be employed in carrying out the aforesaid purpose; and thereupon, for the first time, it was decided, instead of organizing a new corporation for that purpose, to acquire the capital stock of respondent and bring about an arrangement between said International Harvester Company of New Jersey, and respondent, whereby the former would manufacture and sell, and the latter would buy and distribute through local agents in the various states of the United States, including the State of Missouri, such agricultural implements, tools and machinery as should be agreed upon between them from time to time; that thereupon the capital stock of respondent, which at that time was substantially valueless because all its property of every kind and nature had theretofore been sold to the International Harvester Company of New Jersey, as aforesaid, and the proceeds thereof had been distributed to respondent's stockholders, was acquired in the interest of the stockholders of said International Harvester Company, of New Jersey, and the said stock, that is to say, 9,991 shares out of the total of 10,000 shares thereof were placed in the names of and have since been held by Charles Deering, Cyrus H. McCormick and George W. Perkins, jointly, as trustees for the stockholders of the International Harvester Company of New Jersey, as a class, and that the greater number of the persons who are now officers of respondent, were prior to the said acquisition of respondent's capital stock officers

of said International Harvester Company of New Jersey, and that all the persons who are now directors of respondent were at said time and now are directors of said International Harvester Company of New Jersey, that is to say, the present officers and directors of respondent were taken from the officers and directors of the International Harvester Company of New Jersey, but the officers and directors of the said International Harvester Company of New Jersey were never composed, either in whole or in part of those who had been connected with respondent before respondent sold its physical properties, as aforesaid, and the present directors of respondent constitute only one-half of the total number of directors of the International Harvester Company of New Jersey, respondent having nine directors, and said International Harvester Company of New Jersey, having eighteen directors; that the acquisition of the stock of respondent, as aforesaid, was not a part of the plan of the incorporation of said International Harvester Company of New Jersey, nor was it contemplated nor intended at the time of the incorporation of the International Harvester Company of New Jersey, nor at the time of its purchase of the property, assets and business of respondent nor until several weeks thereafter; and that since the month of September, 1902, in pursuance of an arrangement with said International Harvester Company of New Jersey, to buy and distribute its products, respondent has been engaged in the business of selling (but not of manufacturing), agricultural implements, tools and machinery in the State of Missouri, and elsewhere; that respondent has not been confined exclusively to the agricultural implements, tools or machinery manufactured by said International Harvester Company of New Jersey, but has been free to purchase when and where and as it liked, and has in fact, purchased and sold agricultural implements, tools and machinery from other manufacturers than of said International Harvester Company of New Jersey; though because of the community of interest, through their respective stockholders, nearly all of the business of respondent has been, and is, selling and dealing in the agricultural implements, tools and machinery manufactured by said International Harvester Company of New Jersey; that while the relation of the stockholders of the International Harvester Company of New Jersey, and of respondent is as above set forth, the two corporations are separate and distinct; that respondent is engaged exclusively in the business of selling and distributing agricultural implements, tools and machinery, while the main and almost exclusive business of said International Harvester Company, of New Jersey, is the manufacture of such articles and the sale thereof as a manufacturer, and not as a jobber and distributor.

That respondent was not, neither were its officers or stockholders a party to or connected with the organization of said International Harvester Company of New Jersey, or with any of the purchases aforesaid made by said International Harvester Company of New Jersey; neither did respondent, or its officers or stockholders of any of them at any time have any part of interest in the forming or carry-

ing out of the said plan of purchasing the plants, properties and business of the other companies as herein set out. Respondent sold its property and assets as herein set out, and several weeks after said sale, first began to purchase, and distribute to the consumers thereof the products of the said International Harvester Company of New Jersey;

That it was not the design or the purpose of the formation of the International Harvester Company of New Jersey, or of any of the said purchases made by it, nor has the result been to create a monopoly, or to restrain trade in the manufacture, purchase or sale of agricultural implements, tools and machines, sold or offered for sale in Missouri, or to regulate, control, fix or maintain the prices of agricultural implements, tools or machinery, or to limit or fix the amount or quantity of agricultural implements, tools and machinery manufactured or sold or offered for sale in the State of Missouri, or to increase the market price of said articles;

That the real and only purpose of said purchases of the plants and properties by the International Harvester Company of New Jersey, was to enable said company to avoid the large waste that had heretofore resulted from the unbusiness-like and extravagant methods which prevailed in the sale of farm implements, tools and machines, and particularly in the harvester trade, and which required many unnecessary canvassers, experts and selling agents, and entailed other large and useless expenditures, and that the result of the business methods of the International Harvester Company of New Jersey, and of respondent has been to substantially maintain the low level of prices existing at the time of the incorporation of the said International Harvester Company of New Jersey, to the great advantage and profit of the consumer, so that although the cost of all the materials and labor entering into the manufacture of said agricultural implements, tools and machinery, was then and constantly has been increasing, yet such consumer, by the economies produced and the better operation of the facilities marketing the products, have paid for five years, since the organization of the International Harvester Company, of New Jersey, no greater prices for their farm implements, in spite of the increase in the cost of producing and manufacturing the same.

That the companies whose plants and manufactured products and businesses were purchased did not, after such purchase, continue to sell in the State of Missouri, agricultural implements, tools or machinery as they had previously done, and for that reason the number of competitors was to that extent at that time lessened, but that the market price of said harvesting machines and implements has not been increased for the five years following the incorporation of the International Harvester Company of New Jersey, and that full and free competition in the manufacture, purchase and sale of agricultural implements, tools and machinery in the State of Missouri existed at the time of the incorporation of the International Harvester Company of New Jersey, and has continued since that time, and that there are



now in direct competition with respondent in the sale of agricultural implements, tools and machinery in the State of Missouri, the following numbers of competitors in the following lines of agricultural implements, tools and machinery, respectively, and that substantially such competition was in existence at the time of the said incorporation of the International Harvester Company of New Jersey.

NUMBER OF MANUFACTURERS COMPETING WITH RESPONDENT.

Principal Line.	Number of other Manufacturers.
1. Binders. . . . .	6
2. Clover Bunchers. . . . .	4
3. Corn Harvesters and Binders. . . . .	14
4. Cultivators. . . . .	74
5. Cream Separators. . . . .	22
6. Corn Pickers and Huskers. . . . .	4
7. Corn Planters. . . . .	44
8. Corn Shellers. . . . .	34
9. Drills. . . . .	42
10. Feed Grinders. . . . .	64
11. Gasoline Engines. . . . .	139
12. Harrows—Disk, 64; Spring Tooth, 39; Peg Tooth, 74. . . . .	177
13. Hay Loaders. . . . .	12
14. Hay Presses. . . . .	43
15. Hay Stackers. . . . .	25
16. Headers and Combined Harvesters. . . . .	5
17. Horse Powers. . . . .	55
18. Huskers and Shredders. . . . .	17
19. Knife and Tool Grinders. . . . .	18
20. Manure Spreaders. . . . .	21
21. Mowers. . . . .	18
22. Rakes. . . . .	40
23. Reapers. . . . .	6
24. Sweep Rakes. . . . .	18
25. Seeders. . . . .	33
26. Tedders. . . . .	14
27. Twine. . . . .	25
28. Wagons. . . . .	107
Total other manufacturers. . . . .	1,071

Respondent further states that since 1902, the cost of the materials and of the labor composing the actual cost of agricultural implements, tools and machinery has steadily and largely increased, and that the total increase in such actual cost of the agricultural implements, tools and machinery sold by respondent in the State of Missouri between the years 1902 and 1907, is more than thirty per cent. on the average, and the actual increase in the more important materials



used in such manufacture are correctly stated in the following tabulation, to wit:

Comparison of prices of principal materials and of labor used in making harvesting machines:

Materials.	1901-2 Contract Prices.	1907 Contract Prices.	Increase.
Pig Iron:			
No. 2 Foundry Iron.....	\$12.50 ton	\$20.75 ton	53.7%
Malleable Bessemer.....	14.50 ton	21.40 ton	47.6%
Steel.....	1.35 cwt.	1.965 cwt.	38.8%
Lumber:			
Yellow Pine Pole.....			
Stock.....	36.00 per M.	37.50 per M.	4.2%
Hardwoods.....	25.50 per M.	37.50 per M.	47.0%
Crating.....	9.00 per M.	15.00 per M.	66.6%
Cotton Duck.....	.37 yard	.365 yard	35.1%

NOTE.—Current market prices show an increase of from 10 to 15 per cent over the contract prices used above.

Wages.	1902	1907	Increase.
Average wage per hour, combining time and piece work.....	19.4 cts.	22.8 cts	17.5%

But that in spite of such steady and large increase in the actual cost of materials and labor, the prices of the harvesting implements, tools and machinery sold by respondent through its local agents to the farmers in the State of Missouri, did not increase between the years 1902 and 1907; and in the latter part of the year 1907, and solely because of the continually increasing cost of materials and labor as aforesaid, an advance of approximately 5 per cent. in the prices of the manufactured products sold by this respondent for the season of 1908, has taken place, but that such advance in prices has not been as great as the increase in the average prices of other implements, tools and machinery and manufactured products sold in the State of Missouri during the same period; that during the said period from 1902 to 1907, the prices of very many of the agricultural implements, tools and machinery of lines not sold and handled by respondent have largely increased in the State of Missouri, and the market prices of all farm products which are raised and harvested with such agricultural implements, tools and machinery in the State have largely increased during the same period, and in far greater proportion than the increase in the year 1907, in goods sold by respondent as aforesaid.

#### VIII.

That the allegations of this paragraph VIII, except so far as they relate directly to respondent, herein, are not within the personal

knowledge of respondent, but respondent is informed and believes, and for the purposes of this proceeding states upon information and belief, that said International Harvester Company of New Jersey, was not organized under the laws of the State of New Jersey, for the purpose of effecting a combination or pool, or trust, or agreement, or understanding and arrangement of the said corporations heretofore referred to and other corporations engaged in the same business in other states for the purpose of restraining trade and competition in the manufacture, purchase and sale of agricultural implements, tools and machinery in said State of Missouri, or for the purpose of regulating, controlling, fixing and maintaining the price of agricultural implements, tools and machinery sold and offered for sale in said State, or for the purpose of limiting and fixing the amount and quantity of agricultural implements, tools and machinery sold and offered for sale in said State; and respondent denies that any pool, trust, combination or understanding was entered into by said corporations hereinabove referred to, or that said corporations became members of or participated in any pool, trust, combination or understanding which was designed and made with a view to increase or which tended to increase the market price of agricultural implements, tools and machinery sold and offered for sale in said State, or which was designed or made with a view to lessen or which tended to lessen free competition, in said State in the manufacture, purchase and sale of agricultural implements, tools and machinery, or in any pool, trust, combination or understanding whatsoever.

That shortly after the organization of said International Harvester Company of New Jersey, it did purchase and acquire and come into the control of the property, plants, facilities and business formerly those of said several corporations hereinabove referred to at the times and in the manner hereinabove stated, but that such acquisition did not embrace the capital stock of said corporations, except as herein stated, nor were such purchases and acquisitions made in furtherance of any of the unlawful purposes alleged in the information herein, but only for the lawful purposes herein stated; neither did said International Harvester Company of New Jersey, pretend to make such purchases or acquisitions, but it in fact made them as hereinabove alleged; that such sale and transfer of the assets, property and business formerly those of said several corporations, hereinabove referred to was accomplished in the manner hereinabove specifically stated and not otherwise, and that said several corporations did not on or about the 18th day of September, 1902, or on any other date, enter into or become members of any pool, trust, combination or agreement for the unlawful purposes set forth in the information herein, or for any other purposes; that said International Harvester Company of New Jersey, being then the owner thereof, did on or about the 18th day of September, 1902, sell and transfer to respondent, certain property in the State of Missouri, but that such sale and transfer was not a part of any plan for any pool, trust, combination or agreement, but was made in pursuance of and to carry out the arrangement hereinbefore described, whereby respondent purchased the manufactured product of

said International Harvester Company of New Jersey, for the purpose of selling and distributing the same to the users thereof; that the following of said corporations cancelled and surrendered their licenses to do business in the State of Missouri and on the dates following, to wit: McCormick Harvesting Machine Company, October 1st, 1903; Plano Manufacturing Company, October 9, 1903; D. M. Osborne and Company, July 2, 1906; Aultman, Miller and Company, August 31, 1904; and that the Warder, Bushnell and Glessner Company has also ceased to do business in Missouri, that said International Harvester Company of New Jersey, by its actual purchase in the manner hereinabove set out, acquired the right to manufacture and sell all the agricultural implements, tools and machinery, under the various patents and devices, theretofore manufactured and sold by said several corporations which were authorized to, and did engage in the business in said State of Missouri; but said property and rights were not acquired by virtue of the formation of any pool, trust, combination or agreement between said corporations hereinabove referred to, but solely by virtue of said purchase of said several properties, as aforesaid.

#### IX.

That the allegations of this paragraph IX, except so far as they relate directly to respondent herein, are not within the personal knowledge of respondent, but that respondent is informed and believes and for the purpose of this proceeding, admits and states on information and belief, that respondent has not heretofore acted as the sole agent of said International Harvester Company in said State, in the sale of the agricultural implements, tools and machinery manufactured by it, but respondent has since September, 1902, purchased, sold and distributed in the State of Missouri, the manufactured products of said International Harvester Company of New Jersey, and has been, during said time, the only seller and distributor thereof in said State; that most of the agricultural implements, tools and machinery sold by respondent are purchased from and manufactured by said International Harvester Company, of New Jersey; that none of such articles are manufactured by respondent, and respondent's action in that regard is not the result of any pool, trust, combination or agreement as in the information herein charged and alleged.

#### X.

Respondent further states that all harvesting machines and nearly all the other agricultural implements, tools and machinery sold by it in the State of Missouri are sold through respondent's local agents at various points through said State, who sell such agricultural machines to the farmers upon commission, and the property therein, and the proceeds of the sales thereof by such local agents, belong to respondent until such local agents has made settlement therefor, and that in order to secure the undivided services and energy of such local agents, for more than twenty-five years prior to 1906, it was customary and

substantially universal among all the sellers of harvesting machines, mowers, and other kinds of agricultural implements, and among manufacturers of sewing machines, organs and other products which are thus sold by local agents on commission, to provide in their commission contracts with such agents that the agent should not sell or be interested in the sale of any of the products of any competitor of the company of which he was acting as agent, and that such exclusive agency clause is at this time still used by many of respondent's competitors and by many other manufacturers, that prior to the year 1906, respondent has used, in all its commission contracts made with its various agents in the State of Missouri, such exclusive agreement, in substantially the following form:

"Said AGENT especially agrees not to accept the agency for, or to be interested in the sale of any grain binder, header, corn binder, husker and shredder, reaper, mower, stacker, sweep rake, hay rake or hay tedder, other than those manufactured by the International Harvester Company, either directly or indirectly, not to permit any one acting for him as employe, agent or partner, so to do while acting as AGENT for the said COMPANY under this contract, and said agent agrees to pay said Company on demand as liquidated damages, twenty-five dollars for each grain binder, header or corn binder; fifty dollars for each husker and shredder; ten dollars for each mower, reaper or stacker; five dollars for each sweep rake, hay rake or hay tedder sold in violation of this paragraph of this contract."

A copy of such commission contract used by respondent in the State of Missouri, during the season of 1905, and containing said provision, being hereto attached, marked Exhibit "B," and made a part hereof; that since 1905, said exclusive agency clause has not been inserted in its commission contracts nor enforced by respondent with respect to the conduct of business by its various agents in the State of Missouri, but said clause, and the practice represented by said clause, have been wholly discontinued by respondent, as will appear from the contract with agents in the State of Missouri, used by respondent during the year 1906, and thereafter, a copy of which contract is hereto attached and marked Exhibit "C," and made a part hereof, and that since 1905, respondent has made no contract with any retail dealer, or other person, in the State of Missouri, limiting or restricting such agent, dealer or person, in handling or selling of agricultural implements, tools or machinery, solely to those handled and sold by respondent, but that since 1905, all such agents and dealers or other persons connected with or acting for or under respondent, have been left free to sell or deal in any agricultural implements, tools or machinery, wherever or by whosoever made, and at the same time to represent and handle the goods of respondent, and that at no time did respondent use said exclusive agency clause, as set out in said Exhibit "B," to create a monopoly of the business of manufacturing

and selling agricultural implements, tools and machinery in said State, or to prevent competition in the sale thereof, but the sole purpose of such exclusive agency clause as used by respondent, and by all other dealers in agricultural implements sold on commission, was the reasonable and lawful intention of securing and retaining the undivided interest and loyalty and energy of such agent in the transaction of the principal's business, and that said exclusive clause was never used by respondent in the State of Missouri in conducting its business with and through the local dealers, its agents, for any other or different purpose, and that respondent has not at any time controlled, and does not now control, more than thirty per cent. of the business of selling agricultural implements, tools and machinery in the State of Missouri, and does not and has not at any time secured or controlled or enjoyed any portion of the business of manufacturing such implements, tools and machinery in said State, and that respondent by its conduct of said business of selling said articles in the State of Missouri, since 1902, has been of substantial benefit to the people of said State and particularly to the local dealers in the said articles and to the farmers using the same, in the improved quality and durability of said agricultural implements, tools and machinery sold by respondent, and the improved facilities offered in the handling and sale of the same and in the stability of the price thereof, notwithstanding the great increase in the cost of production.

# XI.

Respondent, further answering and by way of return to said information, states that during all the time within which it has been licensed to do business in the State of Missouri, it has used its rights, franchises and privileges and authority granted by said license, only in the manner and form and under the conditions hereinabove set out.

WHEREFORE, respondent prays judgment that it is not guilty of any illegal, willful or malicious perversion of abuse of the privileges, franchises, licenses or authority granted to it by the State of Missouri, and that it is not illegally or unlawfully usurping any privileges, franchises or authorities which are not granted to it by the State of Missouri under the contract, license and authority aforesaid, and that the plaintiff cannot lawfully impair the same, and that respondent be dismissed and discharged of and from the charges laid against it by the information in quo warranto herein, and confirmed in the privileges, franchises, license and authority heretofore granted to it, and that it depart without day in this behalf.

SELDEN P. SPENCER,

W. M. WILLIAMS,

Attorneys for Respondent.

EXHIBIT A.  
STATE OF MISSOURI.

No. 237.

CERTIFICATE.

WHEREAS, the Milwaukee Harvester Company, incorporated under the laws of the State of Wisconsin, has filed in the office of the Secretary of State duly authenticated evidence of its incorporation, as provided by law, and has, in all respects complied with the requirements of law governing Foreign Private Corporations.

NOW, THEREFORE, I, ALEXANDER A. LESUEUR, Secretary of State of the State of Missouri, in virtue and by authority of law, do hereby certify that said Milwaukee Harvester Company is from the date hereof duly authorized to do business in the State of Missouri for a term ending December 12, 1931, and is entitled to all the rights and privileges granted to Foreign Corporations under the laws of this State, and that the amount of the Capital Stock of said Corporation is seven hundred and fifty thousand dollars, and the amount of said capital stock represented in the State of Missouri is seventy-six thousand, three hundred and eighty-seven and 50-100 dollars.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the Great Seal of the State of Missouri. Done at the City of Jefferson, this fifth day of April A. D., eighteen hundred and ninety-two.

(Seal)

A. A. LESUEUR,  
Secretary of State.

EXHIBIT B.  
COMMISSION AGENCY CONTRACT.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, a corporation having offices in Chicago, Illinois, hereinafter designated "COMPANY," and .....

of.....in the county of.....and State of.....  
hereinafter designated "AGENT," agree and contract this.....  
day of.....A. D. 190....., as follows:

Said COMPANY hereby appoints said.....its SALES AGENT under the limitations and restrictions herein specified for the sale of its.....line of grain, corn, and grass harvesting machinery, more particularly enumerated in schedule referred to in Article 10th of this contract, together with repairs for same, in the following described territory, to wit:

.....  
.....and no other, during the season ending  
December 31st, 1905.



Said AGENT accepts such agency and in consideration thereof and for the commission herein agreed to be paid, expressly agrees as follows:

1st. To receive all goods shipped under this agreement, to pay freight on the same from Chicago; keep the same well housed and in good condition, and to make good any damage resulting from the improper handling or storage of same until sold or reshipped; to keep the same free from all charge and expense to said COMPANY, including all taxes which may be assessed on such goods carried over in said AGENT'S possession from the preceding year. To collect from the purchaser the freight on all goods sold or assume the loss of same, and in no case to charge said COMPANY with any sum or sums for freight, handling, storage or other expenses, except provided that in case said COMPANY shall remove or transfer any goods received under this contract, said AGENT shall be entitled to the actual freight paid when the goods were received; said AGENT shall send promptly at the time of shipment to INTERNATIONAL HARVESTER COMPANY OF AMERICA, at..... a duplicate shipping receipt for each shipment made.

2nd. To diligently and thoroughly canvass said territory, and in all reasonable and proper ways promote the trade and interests of said COMPANY, and do all business pertaining to the sale of said machines, attachments and repairs; and to be governed by the printed instructions on the back of this contract which are hereby made a part of the conditions hereof.

3rd. To deliver, set up and fairly start every machine sold, and to instruct the purchaser how to adjust it to work in different kinds and conditions of crops. To pay all livery expenses that may be incurred by experts or canvassers furnished by said COMPANY while assisting said AGENT.

4th. To sell to good and responsible parties only, and to draw all notes, taken on sales, payable to the order of INTERNATIONAL HARVESTER COMPANY OF AMERICA, upon blanks furnished by said COMPANY for that purpose; said notes to bear interest at the rate prescribed in said schedule of prices and terms. Notes taken by said AGENT on any other terms than those prescribed by said COMPANY shall, at the COMPANY'S option, be applied in payment of said AGENT'S commission.

5th. To sell all machines or property received under this contract at such prices and on such terms as may be fixed in writing by said COMPANY or its General Agent, in the territory herein mentioned.

6th. To settle with the purchaser for each machine or other article sold hereunder, either by cash or note, AT THE TIME OF DELIVERY, and in case said AGENT shall deliver any machine or other property mentioned herein for use in the field, or permit the use of any thereof before it is fully settled for by cash or good and collectible note, said AGENT shall account for and pay to said COMPANY on demand the full price of the same, together with interest thereon from October 1st, 1905, and also all costs and expenses in-

curred on account of same, and without any claim for commissions from, or under any warranty by said COMPANY.

7th. To take a signed order from each purchaser, on blanks furnished by said Company, and to use or give no warranty on any such machines other than the regular warranty which is incorporated in machine order blanks for goods furnished by said COMPANY.

8th. To order all attachments and repairs for these machines from said COMPANY, or its said General Agent, and provide suitable storage therefor; and to sell the same for cash only, and to remit the proceeds to said COMPANY or its said General Agent. Inasmuch as the reputation of the COMPANY'S machines is injured by the use of ill-fitting parts made of poor material, by persons not interested in the manufacture of machines, said AGENT agrees to handle none of such repair parts, but agrees to obtain all repair parts for use on the COMPANY'S machines from said COMPANY.

9th. To furnish said COMPANY, or its said General Agent, whenever called upon, a full and detailed account of all sales made under this contract, on such blank forms as shall be furnished by said COMPANY, or its said General Agent for that purpose, and to make a full and complete settlement whenever called upon by said COMPANY, or its said General Agent.

10th. Said COMPANY agrees to pay said AGENT as commission on machines and attachments sold, an amount equal to the excess in the total proceeds received from sales of said machines and attachments (as shall be shown by account sales), over and above what said machines and attachments amount to at the net prices named to AGENT in separate schedule of net prices and terms, issued or to be issued by said COMPANY for the season of 1905 under this contract.

11th. All sales of machines on which said COMPANY receives all cash on or before the dates mentioned in said schedule of prices and terms will be accepted as cash sales, and all machines that are not settled for in full with cash on or before said dates will be settled for at time prices.

12th. No commissions will be paid on attachments sold or furnished gratis with machines.

13th. Commissions shall only be paid on machines sold and settled for, and none shall be paid on machines returned, condemned, or on orders not filled; and in case sales are made to parties who are discovered or adjudged by said COMPANY, or its said General Agent, to have been doubtful or worthless at the time of sale, the notes taken for such sales shall be received by said AGENT to apply on payment of commissions due upon sales recognized and approved by said COMPANY; and if the machine account at time of settlement is overpaid by notes, such surplus notes shall be received by said AGENT as payment in full or in part of commissions due.

14th. Notes given in accordance with the terms of this contract by purchasers of machines, which are found to be good and collectible, shall be accepted at the time of settlement. Notes not in accordance with the terms of this contract shall be replaced by said AGENT, upon demand, with cash or other notes acceptable to said COMPANY.



15th. Said COMPANY reserves the right to hold as collateral security for the payment of said AGENT'S indebtedness to said COMPANY any purchasers' notes received by said AGENT on account of sales of said COMPANY'S property, offered by said AGENT in settlement but not finally accepted by said COMPANY.

16th. Said AGENT shall receive as commission on sales of repairs twenty-five per cent. of the list price thereof, as fixed by said COMPANY'S price list of repairs for these machines for the current year, and said AGENT agrees to pay freight or express on same from General Agency or transfer point.

17th. IT IS FURTHER EXPRESSLY AGREED, that said AGENT is to receive in the capacity of AGENT of said COMPANY and not otherwise, all goods shipped under this contract, and all moneys, property or other securities taken in payment for machines, attachments and repairs, or other property sold by said AGENT for said COMPANY.

18th. Said AGENT further agrees under this contract not to retain, on account of commission or any other claim against said COMPANY, any moneys, notes, or other property received from the sales of any articles hereunder or from collection on notes or accounts, but to promptly remit all moneys, notes or other property to said COMPANY, or its said General Agent, leaving commissions and all other claims to be adjusted at settlement.

19th. Said AGENT is strictly forbidden to take any part from any machine for the purpose of supplying customers with repairs.

20th. IT IS MUTUALLY AGREED, that said COMPANY shall at all times have exclusive and entire control over all machines and attachments and all orders, contracts, accounts, notes, moneys or other property accruing and growing out of the sale of said machines, attachments, stackers, sweep rakes, hay rakes, hay tedders, twine, repairs or other property, whether for this or previous years, and may at any time, when it considers its interests are neglected or jeopardized, without notice, annul and terminate this and all prior contracts, and take possession of all orders, notes, accounts, moneys, machines, attachments, stackers, sweep rakes, hay rakes, hay tedders, twine, and any other property in the possession or under the control of said AGENT by virtue thereof; and said AGENT hereby waives all right of action for damages because of such cancellation of contract and termination of agency.

21st. Said COMPANY agrees to use its best effort to complete and ship all machines ordered, and to supply all attachments and repairs ordered under this contract so long as its stock shall last, but shall not be held responsible to said AGENT for any damage in case the demand for either of said machines, attachments or repairs shall exceed the supply, whether growing out of interruptions by fire or other elements, riot, labor disturbances, delay in transportation or any other cause whatsoever.

22nd. Said AGENT especially agrees not to accept the agency for or to be interested in the sale of any grain binder, header, corn binder, husker and shredder, reaper, mower, stacker, sweep rake, hayrake or hay tedder, other than those manufactured by the INTERNATIONAL.

**HARVESTER COMPANY**, either directly or indirectly, nor to permit any one acting for him as employe, agent or partner, so to do while acting as **AGENT** for the said **COMPANY** under this contract, and said **Agent** agrees to pay said **COMPANY**, on demand as liquidated damages, twenty-five dollars for each grain binder, header or corn binder; fifty dollars for each husker and shredder; ten dollars for each mower, reaper or stacker; five dollars for each sweep rake, hay rake or hay tedder sold in violation of this paragraph of this contract.

23rd. Said **AGENT** hereby represents that he is solvent and responsible, and this contract is entered into by said **COMPANY** upon the faith of such representation.

24th. **IT IS FURTHER AGREED**, that this contract shall, in no case, be valid and binding upon said **COMPANY**, of the first part, until the same shall have been approved by the General Agent, and also that it cannot be subsequently changed, in any of its provisions, in any manner, either verbally or otherwise, by any person, without the written approval of the said General Agent.

**INTERNATIONAL HARVESTER CO. OF AMERICA**, (Seal.)

Approved at. . . . . 190..

**INTERNATIONAL HARVESTER COMPANY OF AMERICA**,

By. . . . .

General Agent.

By. . . . . Traveling Agent.

. . . . . (Seal.)

. . . . . (Seal.)

#### SECURITY BOND.

In consideration of the appointment and retention of the within named agent of **INTERNATIONAL HARVESTER COMPANY OF AMERICA**, for the sale of its harvesters, binders, reapers, mowers, huskers and shredders, stackers, sweep rakes, hay rakes, hay tedders, twine, attachments, repairs and other property in certain territory, the undersigned jointly and severally guarantee the fulfillment by said agent of all the obligations and duties growing out of and relating to such agency or otherwise that now or hereafter may exist, and we agree to pay said Company, or its successors, all damages it or they may sustain by reason of any default of such Agent; and we hereby waive notice of acceptance of the within commission contract, notice of default of the within named Agent, demand and diligence, and hereby agree that the written acknowledgment of or a judgment of any court against said Agent, shall in every respect, bind and be conclusive against the undersigned, their heirs or representatives; and that the liability hereby created shall not be waived, modified or canceled by any extension of time to pay or keep any part of said obligations or duties, or otherwise, nor except by an instrument in writing, executed by said **COMPANY** or its General Agent, canceling all liability here-

under and delivered to the undersigned. No agent has authority to vary the terms of this contract of guaranty.

Witness our hands and seals ..... , A. D. 190..  
P. O. .... (Seal)  
P. O. .... (Seal)  
P. O. .... (Seal)  
..... Machine.

Form C 257.

....., 190..

Date of Contract

1905

Commission Agency Contract

INTERNATIONAL

HARVESTER COMPANY OF AMERICA.

(Incorporated)

With

....., Agt.  
P. O. ....  
Business Point .....  
County of .....  
State of .....  
Shipping Point .....  
Railway Co. ....  
Express Point .....  
Express Co. ....

Estimated Sales for 1905

.....Grain Bdrs. ....Corn Bdrs.  
..... Mowers. ....Shredders

Signed .....  
.....  
.....Traveling Agent.

### INSTRUCTIONS.

The following instructions to agents are made a part of the within contract:

1st. We furnish you a reasonable amount of printed matter free of charge, delivered at the express office at Chicago, you to pay express charges on the same. We will not pay for newspaper or other advertisements unauthorized by us; neither will we pay for any printing of any kind whatever, except that furnished by us from our office.

2d. We will not pay any charges for telegraphing, except for answers to messages, sent by us, or unless it be in reference to parts short on machines shipped by us, or a similar case in which we are entirely at fault; and in such cases dispatches may be sent to us C. O. D.

3d. Our canvasers are sent to assist you and are not invested with authority to change prices or terms; consequently at time of settlement, we shall consider their acts, so far as all matters affecting your contract with us, as having been done by your direction and approval.

4th. You must give every purchaser one of our printed warranties with each machine you sell.

5th. Should any part of machines shipped you prove defective from flaws, poor material, or bad workmanship, said defective parts may be charged back to us; but in all such cases the broken or defective parts must be exhibited at settlement to the authorized agent of said COMPANY, who shall return them to the General Agent. A complete list of all parts given free must be kept on blanks furnished by us for that purpose; this list at settlement to be subject to the approval of the General Agent herein of this COMPANY, and only such parts will be allowed as are approved.

6th. We do not agree to furnish repairs gratis after the first season, and then only such parts as are needed to replace those that have proved to be defective.

7th. Knives, sickles, sections, canvases, reel-boards, reel-arms, neck-yokes, single-trees and tongues are not warranted, as they are always liable to be broken or damaged by improper usage, and **MUST NEVER BE GIVEN FREE.**

8th. You must sell all extras at current list prices, and for cash only, and in no case to charge the purchaser more than the list price unless the part or parts are ordered by express especially for him.

9th. You must sell only to the retail trade, and must not, directly or indirectly, sell or offer for sale any machines to parties outside of the within named territory, under penalty of forfeiture of all commissions to the agent in whose territory the purchaser resides; but in no case is the said **INTERNATIONAL HARVESTER OF AMERICA** to be liable for any trespass by one agent upon the rights of another except as said COMPANY, at its option, may first collect the same from said other agent.

10th. You must not exhibit or furnish any machines received under this contract, for exhibition at any Fair, without the written consent of said COMPANY or its aforesaid General Agent.

11th. All men in the employ of this COMPANY are furnished money sufficient to defray their expenses, and we will not be responsible for any money you may advance to them.

**INTERNATIONAL HARVESTER COMPANY OF AMERICA.**

#### EXHIBIT C.

Form No. C 398. 12M-7-12-05.

..... Machine.

#### COMMISSION AGENCY CONTRACT.

**INTERNATIONAL HARVESTER COMPANY OF AMERICA.**

corporation having offices in Chicago, Illinois, hereinafter designated "COMPANY," and .....

of ..... in the County of ..... and State of .....  
 hereinafter designated "AGENT," agree and contract this .....  
 day of ..... A. D. 190..., as follows:

Said COMPANY hereby appoints said ..... it SALES AGENT  
 under the limitations and restrictions herein specified for the sale of  
 its ..... line of grain, corn and grass harvesting machinery,  
 more particularly enumerated in schedule referred to in Article 7th  
 of this contract, together with repairs for same, in the following de-  
 scribed territory, to-wit: .....

....., during the season ending December 31st, 1906.

Said AGENT accepts such agency and in consideration thereof  
 and for the commission herein agreed to be paid, expressly agrees as  
 follows:

1st. To receive all goods shipped under this agreement, to pay  
 freight on the same from Chicago; keep the same well housed and in  
 good condition, and to make good any damage resulting from the  
 improper handling or storage of same until sold or reshipped; to keep  
 the same free from all charge and expense to said COMPANY, in-  
 cluding all taxes which may be assessed on such goods carried over in  
 said AGENT'S possession from the preceding year. To collect from  
 the purchaser the freight on all goods sold or assume the loss of same,  
 and in no case to charge said COMPANY with any sum or sums for  
 freight, handling, storage or other expenses, except provided that in  
 case said COMPANY shall remove or transfer any goods received  
 under this contract, said AGENT shall be entitled to the actual freight  
 paid when the goods were received.

2d. To deliver, set up and fairly start every machine sold, and  
 to instruct the purchaser how to adjust it to work in different kinds  
 and conditions of crops. To pay all livery expenses that may be in-  
 curred by experts or canvassers furnished by said COMPANY while  
 assisting said AGENT.

3d. To sell to good and responsible parties only, on such terms  
 as may be prescribed in writing by said COMPANY or its GENERAL  
 AGENT, and to draw all notes, taken on sales, payable to the order  
 of INTERNATIONAL HARVESTER COMPANY OF AMERICA, upon  
 blanks furnished by said COMPANY for that purpose; said notes to  
 bear interest at the rate prescribed in schedule of prices and terms  
 referred to in Article 7th of this contract. Notes found to be good  
 and collectible, executed by purchasers of machines in accordance  
 with the terms of this contract, shall be accepted at the time of settle-  
 ment. Notes found at time of settlement to be not in accordance with  
 the terms of this contract shall be replaced by said AGENT, at that  
 time with cash or other notes acceptable to said COMPANY.

4th. To settle with the purchaser for each machine or other ar-  
 ticle sold hereunder, either by cash or note, AT THE TIME OF DE-  
 LIVERY, and in case said AGENT shall deliver any machine or other  
 property mentioned herein for use in the field, or permit the use of  
 any thereof before it is fully settled for by cash or good and collecti-  
 ble note, said AGENT shall account for and pay to said COMPANY

on demand the full price of the same, together with interest thereon from October 1st, 1906, and also all costs and expenses incurred on account of same, and without any claim for commissions from, or under any warranty by said COMPANY.

5th. To take a signed order from each purchaser, on blanks furnished by said COMPANY, and to use or give no warranty on any such machines other than the regular warranty which is incorporated in machine order blanks for goods furnished by said COMPANY. To be governed by the printed instructions on the back of this contract which are hereby made a part of the conditions hereof.

6th. To furnish said COMPANY, or its said General Agent, whenever called upon, a full and detailed account of all sales made under this contract, on such blank forms as shall be furnished by said COMPANY, or its said General Agent for that purpose, and to make a full and complete settlement whenever called upon by said COMPANY, or its said General Agent.

7th. Said COMPANY agrees to pay said AGENT as commission on machines and attachments sold, an amount equal to the excess in the total proceeds received from sales of said machines and attachments (as shall be shown by account sales), over and above what said machines and attachments amount to at the net prices named to AGENT in separate schedule of net prices and terms, issued or to be issued or to be issued by said COMPANY for the season of 1906, under this contract.

8th. All sales of machines on which said COMPANY receives all cash on or before the dates mentioned in said schedule of prices and terms will be accepted as cash sales, and all machines that are not settled for in full with cash on or before said dates will be settled for at time prices.

9th. Commissions shall only be paid on machines sold and settled for, and none shall be paid on machines returned, condemned, or on orders not filled, nor on attachments sold or furnished gratis with machines; and in case sales are made to parties who are discovered or adjudged by said COMPANY, or its said General Agent, to have been doubtful or worthless at the time of sale, the notes taken for such sales shall be received by said AGENT to apply on payment of commissions due upon sales recognized and approved by said COMPANY; and if the machine account at time of settlement is overpaid by notes, such surplus notes shall be received by said AGENT as payment in full or in part of commissions due.

10th. Said AGENT shall receive as commission on sales of repairs twenty-five per cent of the list price thereof, as fixed by said COMPANY'S price list of repairs for these machines for the current year, and said AGENT agrees to pay freight or express on same.

11th. IT IS FURTHER EXPRESSLY AGREED, that said AGENT is to receive in the capacity of AGENT of said COMPANY and not otherwise, all goods shipped under this contract, and all moneys, property or other securities taken in payment for machines, attachments and repairs or other property sold by said AGENT for said COMPANY.



12th. Said AGENT further agrees under this contract not to retain, on account of commission or any other claim against said COMPANY, any moneys, notes, or other property received from the sale of any articles hereunder or from collections on notes or accounts, but to promptly remit all moneys, notes, or other property to said COMPANY, or its said General Agent, leaving commissions and all other claims to be adjusted at settlement.

13th. IT IS MUTUALLY AGREED, that said COMPANY shall at all times have entire control over all machines, orders, contracts, accounts, notes, moneys or other property accruing and growing out of the sale of said machines, repairs or other property, and may at any time, when it considers its interests are neglected or jeopardized, without notice, annul and terminate this contract, and take possession of all orders, notes, accounts, moneys and machines in the possession or under the control of said AGENT by virtue thereof; and said AGENT hereby waives all right of action for damages because of such cancellation of contract.

14th. Said COMPANY agrees to use its best effort to complete and ship all machines ordered, and to supply all attachments and repairs ordered under this contract so long as its stock shall last, but shall not be held responsible to said AGENT for any damage in case the demand for either of said machines, attachments or repairs shall exceed the supply, whether growing out of interruptions by fire or other elements, riot, labor disturbances, delay in transportation or any other cause whatsoever.

15th. IT IS FURTHER AGREED, that this contract shall, in no case, be valid and binding upon said COMPANY, of the first part, until the same shall have been approved by the General Agent, and also that it cannot be subsequently changed, in any of its provisions, in any manner, either verbally or otherwise, by any person, without the written approval of the said General Agent.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, (Seal)

Approved at ..... 190.. By ..... Traveling Agent  
INTERNATIONAL HARVESTER COMPANY OF AMERICA,

.....(Seal)

By .....(Seal)

General Agent.

### SECURITY BOND.

In consideration of the appointment and retention of the within named agent of INTERNATIONAL HARVESTER COMPANY OF AMERICA, for the sale of its harvesters, binders, reapers, mowers, huskers and shredders, attachments, repairs and other property in certain territory, the undersigned jointly and severally guarantee the fulfillment by said Agent of all the obligations and duties growing out of and relating to such agency or otherwise that now or hereafter may exist, and we agree to pay said COMPANY, or its successors, all



damages it or they may sustain by reason of any default of such Agent; and we hereby waive notice of acceptance of the within commission contract and of this guaranty, notice of default of the within named Agent, demand and diligence, and hereby agree that the written acknowledgment of or a judgment of any court against said Agent, shall in every respect, bind and be conclusive against the undersigned, their heirs or representatives; and that the liability hereby created shall not be waived, modified or canceled by any extension of time to pay or keep any part of said obligations or duties, or otherwise nor except by an instrument in writing, executed by said COMPANY or its General Agent, cancelling all liability hereunder and delivered to the undersigned. No agent has authority to vary the terms of this contract of guaranty.

Witness our hands and seals ..... A. D. 190...  
 P. O. .... (Seal)  
 P. O. .... (Seal)  
 P. O. .... (Seal)

.....Machine  
 Form C 398.

..... 190..  
 Date of contract.

1906

Commission Agency contract

INTERNATIONAL

HARVESTER COMPANY OF AMERICA  
 (Incorporated)

With

..... Agt.  
 P. O. ....  
 Business Point .....  
 County of .....  
 State of .....  
 Shipping Point .....  
 Railway Co. ....  
 Express Point .....  
 Express Co. ....  
 .....

Estimated Sales for 1906

..... Grain Bdrs. .... Corn Bdrs.  
 ..... Mowers. .... Shredders.  
 Signed .....

Traveling Agent.

## INSTRUCTIONS.

The following instructions to agents are made a part of the within contract:

1st. We furnish you a reasonable amount of printed matter free of charge, delivered at the express office at Chicago, you to pay express charges on the same. We will not pay for newspaper or other advertisements unauthorized by us; neither will we pay for any printing of any kind whatever, except that furnished by us from our office.

2d. We will not pay any charges for telegraphing, except for answers to messages, sent by us, or unless it be in reference to parts short on machines shipped by us, or a similar case in which we are entirely at fault; and in such cases dispatches may be sent to us C. O. D.

3d. Our Canvassers are sent to assist you and are not invested with authority to change prices or terms; consequently at time of settlement, we shall consider their acts, so far as all matters affecting your contract with us, as having been done by your direction and approval.

4th. You must give every purchaser one of our printed warranties with each machine you sell.

5th. Should any part of machines shipped you prove defective from flaws, poor material, or bad workmanship, said defective parts may be charged back to us; but in all such cases the broken or defective parts must be exhibited at settlement to the authorized agent of said COMPANY, who shall return them to the General Agent. A complete list of all parts given free must be kept on blanks furnished by us for that purpose; this list at settlement to be subject to the approval of the General Agent herein of this COMPANY, and only such parts will be allowed as are approved.

6th. We do not agree to furnish repairs gratis after the first season, and then only such parts as are needed to replace those that have proved to be defective.

7th. Knives, sickles and sections are not warranted, as they are always liable to be broken or damaged by improper usage, and **MUST NEVER BE GIVEN FREE.**

8th. You must sell all extras at current list prices, and for cash only, and in no case to charge the purchaser more than the list price unless the part or parts are ordered by express especially for him. All attachments are to be sold for cash only.

9th. You must sell only to the retail trade, and must not, directly or indirectly, sell or offer for sale any machines to parties outside of the within named territory, under penalty of forfeiture of all commissions to the agent in whose territory the purchaser resides; but in no case is the said **INTERNATIONAL HARVESTER COMPANY OF AMERICA** to be liable for any trespass by one agent upon the rights of another except as said COMPANY, at its option, may first collect the same from said other agent.

10th. You must not exhibit or furnish any machines received under this contract, for exhibition at any Fair, without the written consent of said COMPANY or its aforesaid General Agent.

11th. All men in the employ of this COMPANY are furnished money sufficient to defray their expenses, and we will not be responsible for any money you may advance to them.

12th. AGENT shall send promptly at the time of shipment to INTERNATIONAL HARVESTER COMPANY OF AMERICA, at ...  
..... a duplicate shipping receipt for each shipment made.

13th. AGENT is strictly forbidden to take any part from any machine for the purpose of supplying customers with repairs.

INTERNATIONAL HARVESTER COMPANY OF AMERICA.

And afterwards, to-wit: on the .... day of ....., 1908, the counsel for informant in the above entitled cause filed in the Supreme Court of the State of Missouri, Court En Banc, a replication on behalf of the Informant in the above entitled cause. Which said replication here appears in words and figures, as follows, to-wit:

#### IN THE SUPREME COURT OF MISSOURI.

Court en Banc. October Term, 1907.

State of Missouri on the relation of Herbert S. Hadley, Attorney General,

vs.

International Harvester Company of America, a corporation,

Respondent.

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#### REPLICATION.

Comes now the State of Missouri by Herbert S. Hadley, Attorney General, who in this behalf prosecutes for and in the name of the State and for reply to the answer and return of the respondents herein, denies each and every allegation therein contained, except those which admit the charges and allegations of the information.

And for further reply to the allegations contained in Paragraphs 7 and 8 as to the objects and purposes sought to be accomplished, and accomplished, in the organization of the International Harvester Company of New Jersey, and the purchase by it of the capital stock and assets of the several corporations mentioned in said information, said relator states:

That said International Harvester Company of New Jersey was organized for the purpose of thereby effecting a combination, pool,

trust, agreement, understanding and arrangement of the corporations named in said information, and other corporations engaged in the same business in other states, for the unlawful purposes alleged in said information; and that the said International Harvester Company of New Jersey was not organized for the purpose of becoming the purchaser in good faith of the assets and capital stock of the corporations named in said information; that said International Harvester Company of New Jersey did not, in fact, purchase the property and assets of the several corporations named in said answer and return of one William C. Lane, but that, on the contrary, said William C. Lane acquired the property and assets of said several corporations in order that he might transfer the same to the said International Harvester Company of New Jersey on the organization of said company; that the said William C. Lane, acting for the persons who were effecting the organization of the International Harvester Company of New Jersey, received to himself the transfer of the assets of the several corporations named in said answer and return, and the title to said property and assets of said corporations were transferred to said William C. Lane to hold until the said International Harvester Company of New Jersey was organized, and thereupon were transferred by said William C. Lane to said International Harvester Company of New Jersey; that on the organization of said International Harvester Company of New Jersey, by a certain trust agreement made by the stockholders therein, the legal title of all of the stock of such corporation was placed in the hands of George W. Perkins, Charles Deering and Cyrus H. McCormick, as trustees for the real owners, and said Perkins, Deering and McCormick were to retain the title to said stock for the purpose of exercising the voting power thereof until August 1, 1912; that since the creation of said voting trust, said trustees have held said stock and exercised the powers conferred upon them by said agreement; that said voting trust was made and effected in furtherance of the said unlawful combination, pool, trust, agreement and arrangement accomplished in the organization of said International Harvester Company of New Jersey, as alleged in said information; that in furtherance of said unlawful purposes of said combination, the legal title of all of the stock of the International Harvester Company of America was also placed in the hands of said George W. Perkins, Charles Deering and Cyrus H. McCormick for the benefit of the International Harvester Company of New Jersey, and its stockholders, shortly after the organization of said International Harvester Company of New Jersey, and since said date the legal title to the stock of the International Harvester Company of America has remained in said Perkins, Deering and McCormick; that after the organization of said International Har-

vester Company of New Jersey, the respondent herein, the International Harvester Company of America, was maintained in existence and continued in the business of manufacturing and selling agricultural implements, tools and machinery in the State of Missouri, and elsewhere, by the said International Harvester Company of New Jersey, to further the unlawful purposes of limiting trade, fixing and maintaining prices and defeating competition in the purchase and sale of agricultural implements in the State of Missouri and elsewhere, and that since said date the International Harvester Company of America has been a mere blind and cover in the carrying out of said unlawful purposes, and has been a mere device to enable the International Harvester Company of New Jersey to engage in the manufacture and sale of agricultural implements, tools and machinery in the State of Missouri, in evasion of the laws of the State of Missouri, which prohibited and made it unlawful for the International Harvester Company of New Jersey to do business therein.

Wherefore, and for the reasons alleged in said information, relator again prays that said International Harvester Company of America may be excluded from all corporate rights, privileges and franchises exercised or enjoyed by it under the laws of the State of Missouri, with its franchise, license and certificate, to do business in this State of Missouri; that its franchise, license and certificate to do business in this State be declared forfeited, and that all, or such portion of its property, as the court may deem proper, be confiscated unto the State, or, in lieu thereof, a fine be imposed upon it in punishment of the perversion, usurpation, abuse and misuse of franchise, as herein described

HERBERT S. HADLEY,

Attorney-General.

FRANK BLAKE,

Assistant Attorney-General.

And afterwards, to wit, on the 27th day of January, 1908, the court made and entered in the above-entitled cause an order appointing Theodore Brace of Paris, Monroe county, Missouri, special commissioner, to take testimony on the issue joined therein, as follows, namely:

State ex rel. Herbert S. Hadley, Attorney-General, Relator,	} No. 14546.
vs.	
International Harvester Company of America, Respondent.	

Now at this day, it appearing to the court from the pleadings in the above-entitled cause, that issues of fact are joined therein, therefore, on motion of the Attorney-General, that a Special Commissioner be ap-

pointed by the court to take the testimony upon the issues joined in said cause, it is ordered by the court that Judge Theodore Brace of Paris, Missouri, be and he is hereby appointed Special Commissioner to take the testimony upon the issues joined in said cause, with full power and authority to issue subpoenas, compel the attendance of witnesses and the production of papers, books and other documents, to issue attachments therefor, and to hear and determine all objections to testimony and to admit or exclude the same in the same manner and to the same extent as this court might in the trial of the case before the court, and to report the testimony, with his findings of fact thereon, together with his findings as to the law upon each issue tendered to him by the respective parties, and to state his conclusions of law in his final report; exceptions to findings of fact and law so made by said Special Commissioner to be filed by either party so desiring, within ten days after the filing of the Commissioner's report and findings.

State of Missouri, Set.

I, John R. Green, clerk of the Supreme Court of the State of Missouri, certify that the foregoing is a full, true and complete copy of the order of said Supreme Court, entered of record on January 27, 1908, at the October term, 1907, of said court, appointing Judge Theodore Brace Special Commissioner in the case of State ex rel. vs. International Harvester Company of America.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at the City of Jefferson, State of Missouri, this 7th day of May, A. D. 1908.

JOHN R. GREEN,

(Seal) Clerk of the Supreme Court of the State of Missouri.

And afterwards, to wit, on the 7th day of May, A. D. 1908, Theodore Brace, Special Commissioner in the above-entitled cause, appeared before John R. Green, clerk of the Supreme Court of the State of Missouri, and took the oath of office as Special Commissioner in the above-entitled cause, which said oath of office of Special Commissioner, Theodore Brace, as made before John R. Green, clerk of the Supreme Court of the State of Missouri, on the 7th day of May, A. D. 1908, here appears in words and figures, as follows, towit:

No. 14546.

IN THE SUPREME COURT OF MISSOURI, COURT EN BANC, OCTOBER TERM,  
1907.

State of Missouri on the relation of Herbert S. Hadley, Attorney-Gen-  
eral,

vs.

International Harvester Company of America, a corporation, Respond-  
ent.

### OATH OF OFFICE OF SPECIAL COMMISSIONER.

Theodore Brace of Paris, Monroe county, Missouri, having been, on the 27th day of January, 1908, by proper order of record, appointed by the Supreme Court of the State of Missouri, Special Commissioner to take the testimony upon the issues joined in the above-entitled cause, with the power to issue subpoenas compelling the attendance of witnesses, the production of papers, books and other documents, to issue attachments therefor, and to hear and determine all objections to testimony, to admit or exclude the same in the same manner and to the same extent as the Supreme Court might in the trial of the above cause before the court, and to report the testimony, with his findings of fact thereon, together with his findings as to the law upon each issue tendered to him by the respective parties, and to state his conclusions of law in his final report to the Supreme Court of the State of Missouri; a duly authenticated copy of which order is hereto attached, being duly sworn, makes oath and says that as Special Commissioner he will faithfully and fairly hear and examine said cause, make a just, impartial and true report, and with all convenient speed, faithfully comply with the said order of the Court, according to the best of his ability and understanding.

THEODARE BRACE.

Subscribed and sworn to before me, John R. Green, clerk of the Supreme Court of the State of Missouri.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court this 7th day of May, A. D. 1908.

JOHN R. GREEN,

(Seal) Clerk of the Supreme Court of the State of Missouri.

State of Missouri, ex informatione, Herbert S. Hadley, Attorney-Gen-  
eral, Informant,

vs.

International Harvester Company of America, a corporation, Respond-  
ent.

Proceedings had before Theodore Brace, Special Commissioner in the above-entitled cause in Jefferson City, in the State of Missouri, in



room of Division Number Two of the Supreme Court of the State of Missouri, on the 7th and 8th days of May, 1908. Said hearing having been adjourned from the 6th day of May, 1908, by agreement of Special Commissioner Theodore Brace and counsel for informant, and respondent in the above-entitled cause.

Hon Herbert S. Hadley, Attorney-General of the State of Missouri, Hon. Frank Blake, Assistant Attorney-General of the State of Missouri, and Hon. F. G. Ferris, special counsel for the State of Missouri, appearing as attorneys and counsel for the State of Missouri.

Hon. W. M. Williams, Hon. Selden P. Spencer and Hon. Edgar A. Bancroft appearing as attorneys and counsel for the respondent.

Hon. F. G. Ferris, special counsel for the State of Missouri, by request of Special Commissioner Theodore Brace, reads the information in warranto on behalf of the State, as filed in the above-entitled cause, on the 12th day of November, A. D. 1907.

(For information in warranto, see page ———, as set out in the within record.)

Hon. Selden P. Spencer, counsel for the respondent, at the request of Special Commissioner Theodore Brace, reads answer, as filed by respondent in the above-entitled cause, through its counsel.

(For reference to said answer, see page ——— of the within record, where said answer appears in full.)

Hon. F. G. Ferris, special counsel for the State of Missouri, reads in evidence, at the request of Hon. Theodore Brace. Special Commissioner in the above-entitled cause.

(For reference to replication, see page ——— of the within record, where same appears in full.)

Hon. Selden P. Spencer, counsel for the respondent:

If your honor please, it may make it plain to you, as Commissioner, to state that the corporation with the one hundred and twenty million dollar capital stock, is the International Harvester Company of New Jersey, and is not the respondents in this case.

Hon. Theodore Brace, Commissioner:

You can refer to the International Harvester Company of New Jersey as the New Jersey corporation, and you can refer to the respondent as the Wisconsin corporation.

Hon. Herbert S. Hadley, Attorney-General for the State of Missouri:

Does your Honor desire that we make any statement in addition to the pleadings that have been read?

Hon. Theodore Brace Commissioner:

I do not think it will be necessary that you make any lengthy state-

ments in the case. If you have any special matter you desire to bring to my attention, I would be glad to hear any such statement.

Hon. Herbert S. Hadley, Attorney-General for the State of Missouri:

If your Honor please, the only statement that I will make in addition to the pleadings, as read, is that one of the companies that will figure largely in the testimony in this case is the Deering Harvester Company, which was a partnership, and was not licensed to do business in the State of Missouri. I mention that so that your Honor will understand the relevancy of that. It will be shown by the testimony that the partnership in that corporation participated in what is contended by us as a trust, the International Harvester Company of New Jersey; the same thing will be true of other companies that have subsequently been absorbed; their names are not mentioned, but will be offered to show our contention.

CYRUS H. McCORMICK, of lawful age, being duly sworn, testifies as follows:

#### DIRECT EXAMINATION.

By Attorney-General Herbert S. Hadley:

Q. Your name is Cyrus H. McCormick? A. It is.

Q. Where do you live? A. Chicago.

Q. How long have you resided here? A. Since 1871.

Q. Now, what business are you engaged in? A. I am president of the International Harvester Company of New Jersey.

Q. Of New Jersey? A. Yes, sir.

Q. That is incorporated under the laws of New Jersey? A. Yes, sir.

Q. How long have you held that position? A. Since the organization of the company in 1902.

Q. What business were you in prior to that time? A. I was president of the McCormick Harvester Machine Company.

Q. How long had you held that position? A. Since 1884, at the time of the death of my father, who was president.

Q. What was his name? A. Cyrus H. McCormick.

Q. He was one of the original promoters or establishers of the harvesting machine business in this country? A. He was.

Q. He was a pioneer in the business? A. Yes, sir; he was.

Q. He was the founder of the McCormick Harvesting Machine Company? A. Yes, sir; he was.

Q. What time was that founded? A. It was founded in 1879,

and was the successor of former firms of the McCormick business running back away into the 40s.

Q. This Harvesting Machine Company that you became the president of in 1884 was the same McCormick Harvesting Machine Company that was licensed to do business in the State of Missouri October 5, 1894?

A. Yes, sir; it was.

Q. I assume before that that you were doing business in the State of Missouri, but was not required to take out license? A. Yes, sir.

Q. You were connected with the business, I assume, before you became president? A. I was.

Q. What was your connection with the business before that? A. I was an employe of the firm. I left college in 1879, and was with them from that time until the formation of the company.

Q. You have been in all of your business life with the harvesting machine company? A. Yes, sir.

Q. You are familiar with and know in an increasingly general way the extent and detail of the business? A. Yes, sir.

Q. Now, in 1884, when you became the president of the company, and up until 1902, what other harvesting machine companies were engaged in a large way in the manufacturing and sale of farm implements and machinery? A. Well, there was a long list of them.

Q. Name the principal ones? A. The principal ones were the Walter A. Wood Company of New York, the D. M. Osborne Company of New York, the Buckeye Company of Ohio, the Three Champion Companies of Springfield, Ohio, the Johnston Harvester Company of New York, the Minneapolis Harvester Company of Minneapolis, the Deering Company, the William Deering & Sons in the various forms of its firm, named William Deering & Company, the Winona Harvester Company of Wisconsin, The Milwaukee Harvester Company, and its predecessors, the Parker-Dennett, a predecessor of the Milwaukee, the Plano Harvester Company, The Edra Spratt & Company of New York, D. S. Morgan & Company of New York, Sieberling & Company of Ohio—well, there were probably a few more that I do not recall.

Q. Did you mention the Aultman, Miller & Company? A. I mentioned the Buckeye; there were several firms, there were about twenty-two to twenty-five, I think, in all.

Q. And the Acme? A. That did not come in until later.

Q. Did you familiarize yourself with and were you familiar in 1891 and down to 1902, as to what amount of business was done by the leading harvesting machine companies? A. I was acquainted with it; I couldn't tell what the amount was in dollars and cents; I was acquainted with the business.

Q. Do you now recall it; have you now it in your memory? A. I have no means of knowing myself the total amount of business that was done.

Q. The records of the business was shown by the total number of machines? A. Yes, sir.

Q. Your company was engaged in business, in the general harvesting machine business, together with the sale of the supplies and repairs and implements connected with the harvesting business from 1891 to 1902? A. Yes, sir.

Q. During that time the Deering Company was also engaged in business here? A. Yes, sir; it was.

Q. Your company was an Illinois corporation? A. Yes, sir.

Q. With the records and factories at Chicago? A. Yes, sir.

Q. The Deering Company was a partnership? A. Yes, sir.

Q. And its records were at Chicago? A. Yes, sir.

Q. The Champion you spoke of, what company manufactured the Champion? A. In the beginning there were three firms.

Q. In 1891? A. There were three firms.

Q. In 1902? A. The Warder, Bushnell & Glessner Company of Springfield, Ohio.

Q. That is where the main office of that company was located? A. Yes, sir.

Q. Who were the main officers? A. George Bushnell was the president and Mr. Glessner the vice-president and treasurer. Mr. Warder was one of the officers, J. J. Glessner and Captain Warder.

Q. The Plano was a corporation engaged in the business and organized under the laws of Illinois? A. Yes, sir.

Q. Where were its principal offices located in 1902? A. In Chicago.

Q. Who was the principal officer of that company? A. Its president, W. H. Jones.

Q. Then the Milwaukee Company, which is now known, or was the predecessor of the International Harvester Company of America, it was located at Milwaukee? A. Yes, sir.

Q. What was the output of the McCormick Harvester Company in 1901? A. I couldn't give you from memory; you mean of different machines?

Q. Yes, sir; there was about three hundred thousand? A. There were about one hundred thousand mowers, about fifty thousand binders, forty thousand rakes; that is one hundred and ninety thousand. I should say about two hundred and forty thousand machines, probably two hundred and twenty thousand.

Q. Did your company enjoy the largest business of any company in the United States at that time? A. Yes, sir.

Q. What was the next largest? A. The Deering Harvester Company.

Q. What was the next largest? A. In 1901?

Q. Yes, sir. A. The Champion.

Q. About what was the out-put of the Deering and Champion in round numbers, if you know? A. Well, both of them together would perhaps be somewhat more than the McCormick Company.

Q. But each of them less? A. Yes, sir.

Q. The Deering was probably twice as large as the Champion? A. Yes, sir.

Q. Perhaps more? A. Perhaps a little more.

Q. What would be the next to the Warder, Bushnell Company?

A. In size of output?

Q. Yes, sir. A. The Plano, I think.

Q. The Milwaukee next to that? A. I think the Osborne more than the Milwaukee. Decidedly more. I think the Osborne was equal to or more than the Plano.

Q. The Plano, Osborne and Milwaukee would be the next three largest of the ones you mentioned? A. Yes, sir.

Q. The six companies in 1901, the largest harvesting machine companies were the McCormick, the Deering, the Milwaukee, the Champion, the Plano and the Osborne Companies? A. Yes, sir.

Q. What percentage of the country did these six companies supply in 1901? A. Of their common business?

Q. Yes, sir; what percentage of the entire business of the United States did the business of these six companies constitute? A. I think about eighty per cent.; I think about that much.

Q. That would be your judgment from a general knowledge of the business? A. Yes, sir.

Q. Now, you were as familiar with the business of your company in the State of Missouri as you were any other states where you were not personally connected with it? A. Yes, sir.

Q. You came here occasionally, did you? A. Oh, yes; I came to St. Louis quite often.

Q. And Kansas City? A. Yes, sir; I made my memorable visit to Kansas City.

Q. You made a speech there once? A. Yes, sir.

Q. You knew who your competitors were prior to 1902? A. Yes, sir.

Q. Were these six companies that had been engaged in business prior to 1902 in Missouri? A. Yes, sir.

Q. These five companies, including your own, were the ones that you met with here? A. Yes, sir; in the order named, practically.

Q. They probably did as large a percentage of business in the outlay of farm implements in this State as any, and as large as eighty per cent.? A. I couldn't say as to the business of Missouri.

Q. You knew the fact that they did no small business in Missouri, any more so than anywhere else in the country? A. No, sir.

Q. Was the competition in the country pretty fierce prior to 1902? A. Yes, sir; it was.

Q. That is, by "fierce" I mean, and I suppose you understand, that there were vigorous efforts made by each company to sell its

machines to the retail dealers and farmers? A. Yes, sir; it was.

Q. You adopted methods of advertisement and the employment of special agents to convince the retail dealers and the public that your machines were better than the others? A. Yes, sir; we did.

Q. That is a correct statement? A. Yes, sir.

Q. During that time, I suppose during these years from 1891 to 1902, you carried on the same method of competition, and they carried on the same that you did? A. About the same manner, I think.

Q. There was no combination or agreement to fix prices or restrain competition between these six leading companies? A. No, sir; none, whatever.

Q. Or between any other company that you knew? A. Not that I knew.

Q. I suppose you sold your machines to local retail implement dealers in various towns of Missouri? A. Yes, sir; we did.

Q. You had a list price for your machines, and these prices were quoted to them? A. Yes, sir; we did.

Q. Did you sell to them on commission or on delivery? A. Both ways; sometimes on commission and sometimes delivery; more often on commission.

Q. The reapers were handled on commission? A. Yes, sir.

Q. The local dealers hardly have enough capital— A. Most of the business was on commission; some of the small things were sold on delivery.

Q. Did you have any exclusive contract with the retail dealers prior to 1901? A. We did.

Q. Was that enforced? A. Most generally.

Q. Was that such a contract as the International Harvester Company of America had prior to 1905? A. Yes, sir; much stronger.

Q. Did the other companies use such a contract? A. Yes, sir.

Q. Did that result in this condition, that a retail dealer in a town would handle only the Deering or McCormick machine? A. Practically.

Q. Were there any exceptions to that rule? A. Some cases where one man would handle two machines, but hardly ever in this case would there be any exclusive contract. In case of an exclusive contract, they would handle just only the one machine.

Q. So the exclusive contract was an option with the purchaser? A. No, sir; it was made at the time the purchases were made. It was a matter where they could neither enjoy an option or exercise any power.

Q. Where there was an exclusive contract the dealer only handled a Deering or Plano? A. Yes, sir.

Q. Did most of these companies use this exclusive contract? A. Yes, sir.

Q. The dealer that handled only one line was making a fight against the other dealers handling other machines? A. Yes, sir; he was.

Q. Did you apply that exclusive contract on commission goods or goods that you sold direct to the dealer? A. Exclusive contract



was mostly on commission goods; I think in some cases it was also on the sale of goods, but in a less degree.

Q. Now, Mr. McCormick, I want to ask you about a matter which is more or less part of the initial history of this company, a trip that you and Mr. Charles Deering and J. J. Glessner and W. H. Jones made to New York city in 1902. You remember the occasion of the trip, do you? A. I made no trip with these gentlemen.

Q. Did you meet them there? A. I did not.

Q. Did you meet anyone of these gentlemen there? A. I saw them on one occasion, but not collectively.

Q. How many did you see at a time? A. The first time I saw these men together that you speak of was, I think, about the end of July, 1902, after we had signed up contracts to sell to Mr. Lane.

Q. That is not the matter I was referring to. A. I thought you were asking me that, the reason I spoke in that manner, if we made a trip from Chicago down there to meet and confer in July.

Q. Perhaps we can get at it more intelligently by letting you tell it. What trip had you made to New York in reference to this contract prior to the time you met these gentlemen there? A. The first trip I made to New York in connection with the formation of this company and the selling of the assets and property of the McCormick Harvesting Machine Company to Mr. Lane was a preliminary trip, it was made in the middle of June.

Q. 1902? A. Yes, sir; when I first met Mr. Perkins.

Q. That is George W. Perkins? A. Yes, sir.

Q. Of the firm of Pierpont Morgan and Company? A. Yes, sir; after that I was there several times between that and July 28th, which, I think, was the day on which we signed the memorandum.

Q. Have you got that memorandum, Mr. McCormick, that the parties signed? A. Yes, sir.

Q. Is it here? A. I think that is it (indicating and handing same to General H. S. Hadley).

By General Herbert S. Hadley: I will take it and look over it at the noon hour.

By Selden P. Spencer, counsel for the respondent: General, the parties never signed it.

Examination resumed by Herbert S. Hadley:

Q. You spoke of a memorandum that all of these parties signed? A. I signed the memorandum, and I understood afterwards they signed similar memoranda. I never saw these; I only saw the one I signed.

Q. How did you happen to go to Mr. Perkins' in Mr. Morgan's office in June, 1902, with reference to the formation of this International Harvester Company? A. That involves the beginning. There were a large amount of reasons.

Q. Had you been asked by anybody? A. No, sir; I went there on behalf of the McCormick Harvesting Machine Company to counsel with Mr. Perkins as a financier on the subject of enlargement of our



corporation and financing it in a larger way than we then existed. I went at the request of the stockholders of the McCormick Company, because at that time we were searching for information to know how we could enlarge our business.

Q. You say the conditions to which you referred in your former testimony, "fierce competition and unbusiness-like conditions," those are the matters you refer to? A. I refer to fierce competition. I will say that the unbusiness-like methods then practiced had brought us to realize the fact that some change would be necessary in the McCormick business, or else we would be obliged to raise prices, and we knew that was an undesirable thing to do, and not desirous of doing it we began to cast around as to what would be feasible. We came to the conclusion if we could enlarge the business of the McCormick business and get in more capital, cover a larger field, build more machines and different kinds of machines, and get back to the raw material, our profits would be greater, and we could make a greater success of the business; so, among other things that we wanted counsel on that matter was to see Mr. Perkins, who then was a junior member of the firm of Morgan & Company.

Q. Did you on the occasion of that visit consult E. H. Gary of the Steel Trust? A. No, sir.

Q. Did you at any time consult him? A. No, sir; I did not.

Q. Do you know whether he was consulted by any of your associates? A. I have no knowledge of it.

Q. Do you know Mr. Gary? A. Very well.

Q. What was the capitalization of the McCormick Harvesting Machine Company? A. Three million.

Q. What had it been in the first instance? A. Two million and a half; I should say, it was always two million and a half.

Q. It was always that? A. Yes, sir.

Q. In 1902 it had an existence of fifty years? A. It was organized in 1879.

Q. Before that the business had existed not at a corporation? A. It existed in 1831, when my father started it.

Q. It had a small beginning? A. Yes, sir; began from nothing.

Q. It increased to a corporation of two million and a half and larger assets? A. Yes, sir.

Q. Had you paid dividends on your stock? A. Yes, sir; every year.

Q. Increasingly large? A. Yes, sir; I do not remember what they were. The capital increased in the business until the surplus was much larger than the capital stock.

Q. What was your surplus in 1902? A. I don't know; I should say it was, I couldn't tell, it was many times, many times two and a half millions.

Q. And it was more than it was in 1901, that is, in 1902? A. Yes, sir; it must have been more; yes, sir.

Q. And 1901, more than 1900? A. Yes, sir; it increased each year.

Q. From your knowledge had the six companies which had been

in business increased in size? A. I couldn't say; I think they were not increasing. I do not think they did increase, except the Deering.

Q. Do you know what the capitalization of the other companies and the dividends they paid on their stock was? A. No, sir; I think the Plano was a million dollars, and I don't know about the others. I am quite satisfied they did not make increases or profits the last few years before 1902.

Q. But your company had? A. Yes, sir.

Q. Do you know a man by the name of Herbert N. Casson? A. Yes, sir; I do.

Q. Have you seen him recently? A. I saw him about two or three months ago, when he was writing his articles.

Q. He wrote a series of articles on the International Harvester Company, and a history of the harvesting business? A. Yes, sir; he did.

Q. Did he interview you for the purpose of getting matter to write this article? A. He did several times.

Q. Was the publication of these articles secured by the International Harvester Company? A. No, sir.

Q. Were they at the solicitation of the Harvester Company? A. No, sir.

Q. Was Mr. Casson or his company paid for them? A. No, sir; we had nothing to do with it; we offered him every facility we could, in every way we could.

Q. Did he interview you himself? A. Yes, sir; he did.

Q. Did you read the articles that were published? A. I did.

Q. Were you correctly reported? A. I do not think everything he said was exactly correct, but in the main it was a pictorial sketch of the business. We had nothing to do with a preparation of the articles; I stated many things differently, but he came and got what information he wanted, and we gave him everything he asked for, and then he wrote his own articles.

Q. You might disagree with him on some of the inferences he drew, but as to the statement of facts, they are substantially correct? A. I think so.

Q. He stated there had been several conferences between you and a representative of the Deering Company, of the Glessner Company and the Plano Company prior to that meeting in New York, was that correct? A. His whole statement as to the formation of the company was incorrect.

Q. You did not tell him that there had been any meeting before this meeting in New York? A. No, sir; that was very incorrect.

Q. Had you not communicated indirectly or directly with Mr. Glessner, or Mr. Jones, or any representative of these companies, which they represented before you saw Mr. Perkins? A. Any negotiations with regard to selling the company?

Q. Yes, sir. A. No, sir; none, whatever.

Q. You had a conference with Mr. Perkins with reference to enlarging the business of the McCormick Harvesting Machine Com-

pany or changing it some time in the month of June, 1902? A. Yes, sir.

Q. As a result of the conference did the other representatives of other companies go to see Mr. Perkins? A. I didn't know that there had been other conferences; the conference I had with Mr. Perkins was a proposition on his part to sell the company.

Q. Now, as a result of the conference you had with Mr. Perkins, the Plano and other companies agreed later to form this New Jersey corporation. In other words, there were propositions, and these propositions involved in a general way the organization of the New Jersey corporation to take over the property of the various companies? A. Well, all we knew was that he asked us if we would not sell our business to a corporation which he would form. We stated the condition upon which we would do it. That the company must be conservatively organized, and that the assets and liabilities be figured from a conservative basis.

Q. You did not want the stock watered? A. No, sir; not a bit.

Q. Did you understand this corporation to be organized was also to take over other plants? A. Nothing about that was said to me. We may have inferred it. All he said to us was in regard to the sale of our own company.

Q. Do you mean to say, Mr. McCormick, that you did not by your conversation with Mr. Perkins know that this New Jersey corporation was to take over other plants other than yours? A. Only by inference; he never made any intimation of such a proposal, and we inferred it ourselves. We had no communication from him of such a plan.

Q. From what did you infer it? A. We inferred if he wanted to buy our business, he wanted to buy others.

Q. Had Mr. Perkins ever been engaged in the harvesting business? A. No, sir; he had not.

Q. Mr. Perkins' connection with the business was as a result of your having visited him and your asking him to take hold of it? A. It came out of our talk, I suppose. I knew of no previous conversations he ever had.

Q. Was there any papers signed by you to sell that business to the International Harvester Company? A. No, sir.

Q. You say there was not? A. No, sir; July 28th was the first memorandum we ever signed, as far as I know.

Q. Did you agree to go into the International Harvester Company, and to take a certain amount for your company without knowing what was to be paid for the other companies? A. Yes, sir; certainly.

Q. Was there not a board of appraisers appointed for the other companies? A. We had no means of knowing what the amount of our payment would be. If you are asking how the price was fixed, I can tell you. That was the first difficult question. We did not know how to get at it, because we had our own views of value, but to get at it with Mr. Perkins would have taken us a long time; but finally he suggested making a sale without fixing the value, and then leaving

the appraisal, leaving the fixing of the final sum to a board of appraisers of impartial men. We thought the matter over, and finally we decided that was the only way we could settle upon it in time without dragging over a long period of time, and we agreed to that, and we agreed to sell without knowing what we were to get.

Q. Was there an agreement as to who should be the board of appraisers? A. There was not. We did not know who Mr. Perkins would pick. We said we thought we ought to have a representative.

Q. On the board of appraisers? A. Yes, sir.

Q. Who were the final board of appraisers selected? A. The final board was Mr. Fackenthal, a manufacturer of New Jersey, who was appointed with Mr. Fetzer, who was suggested by myself, he is a Chicago man, and Mr. Osborne, a banker of Chicago. These three made the board. W. O. Osborne.

Q. He was with the company? A. No, sir; he was vice-president of the Central Trust Company of Chicago.

Q. Your man was Fetzer? A. Yes, sir.

Q. Who selected the other two? A. I do not know. I assume Mr. Osborne was suggested by the Deering people.

Q. Who selected the other one? A. I suppose Mr. Perkins himself.

Q. Were you present in New York when you signed this agreement of the transfer of your company? A. Yes, sir; I was.

Q. Where were you? A. At the Manhattan Hotel.

Q. Were any other members of the companies present? A. Yes, sir; it was signed down in town in the office of one of the lawyers.

Q. Who was that? A. I think Mr. Cravath's office.

Q. What other representatives of what other companies were there? A. Mr. Deering was there, Mr. Jones, Mr. Glessner and myself.

Q. That was what date? A. That was the date of the paper, the 28th of July, that was the date I referred to as the first time we met.

Q. Upon that date a paper similar to this was signed by each of these representatives of each of their companies? A. I understood so; I never saw the paper.

Q. You understood so? A. Yes, sir.

Q. That was the first time your company had agreed to go into this consolidation, or whatever you please to call it? A. That was the culmination of the conferences with Mr. Perkins. We had come to an agreement with him a day or two before.

Q. I mean the papers were signed up then? A. Yes, sir; that is the first time we signed up the papers. That is the first time I met these gentlemen or saw them.

Q. Had you known they were in New York? A. I had heard by hearsay one of them was there.

Q. Mr. Casson who wrote these articles tells a somewhat dramatic story, and that you all were placed around at different hotels and Mr. Perkins went from hotel to hotel and kept you there pending an organization and bringing you all to a common understanding. A. That part is largely pictorial.

Q. State what element of fact there is in it? A. I suppose in view of subsequent matters that they were at different hotels.

Q. You have since come to know that? A. We did not know at the time.

Q. You have since known from your association with these gentlemen that they were placed around at other hotels or were at their hotel, and Mr. Perkins was conferring with each of you separately? A. Yes, sir.

Q. You say you had knowledge one of these gentlemen was there? A. Someone told me he saw Mr. Glessner on the street. I do not remember who he was.

Q. You knew at that time that other companies were to be taken over by the International Harvester Company? A. I inferred it very distinctly, as I said there was nothing in our talk with Mr. Perkins that would indicate that.

Q. I asked you where you got the inference; where had you secured the inference that these other companies would become a part of the consolidation? A. Simply our own judgment, as we talked the matter over; my brothers were there with me. We inferred the matter ourselves. We had no positive information on the subject.

Q. I do not want to quibble on a matter of legal knowledge. It was your understanding when you were in New York that there was a New Jersey corporation that was to take over the five companies that did go in? A. It was not limited to five companies; Mr. Perkins never said he would buy five companies. We imagined the New Jersey Company was to be formed, and it was not to buy only our company.

Q. Your imagination went to the extent that you had a pretty well settled conviction that at least these five companies would be taken over? A. We had a conviction that some of the companies would be taken over.

Q. You imagined these five would be in the list? A. Naturally these were the ones we thought about.

Q. Because they were the largest companies that had produced these conditions you thought were injurious? A. Yes, sir; we naturally would think about those, that would occur to anybody in forming a new company.

Q. That did occur to you? A. Yes, sir.

Q. They were the largest companies as you stated? A. Yes, sir; in the order stated.

Q. Now, Mr. Casson says in this article of his: "One by one these battle-worn Westerners came to New York, 'on an exploring expedition,' as one of them said." Did you tell Mr. Casson you had been to New York on an exploring expedition? A. No, sir; never.

Q. You did, as a matter of fact, tell him that you had been to New York? A. I told him I went purely on behalf of the McCormick Company. I never went on an exploring expedition for the other companies.

Q. You went to Mr. Perkins for the purpose of investigation? A. Yes, sir.

Q. And to supply a field for larger things? A. Yes, sir.

Q. Now, Mr. Casson says "Here they met Judge Elbert H. Gary, whom they had known intimately in Chicago;" did you know him? A. Yes, sir; I did.

Q. Did you meet him in New York? A. No, sir; not in connection with this business.

Q. Casson says further, "Gary had been William Deering's attorney for twenty-five years;" did you know that? A. Yes, sir.

Q. And further, "and naturally, when the Chicagoans ran to Gary with their tales of woe, he steered them across Broadway into the office of J. P. Morgan, which, in 1902, had become a sort of Tribunal of Industrial Peace;" did you give Mr. Casson that information? A. I did not.

Q. Do you know whether or not Mr. Deering went to see Gary when he went to New York? A. I don't know; I suppose that if they went there at all, they would see Judge Gary.

Q. You had that supposition? A. Anyone might assume that, but as to how much of that there was I couldn't say; I never said that to Mr. Casson.

Q. Have you learned since Mr. Gary had part in this? A. I never learned anything about it; the first I ever saw of him was after the papers were signed up.

Q. What was his connection in the matter, then? A. He was elected as a director.

Q. Of the New Jersey Company? A. Yes, sir; of the new company.

Q. You read this article here, what was the paper that it was published in? A. Everybody's.

Q. About what month was it published. You read this article I am reading from now? A. Yes, sir; I certainly did.

Q. You have not asked the paper to make any corrections? A. No, sir; not at all.

Q. Now, the conditions were as Mr. Casson says in his article: "There were four of them—Cyrus H. McCormick the Second, Charles Deering, J. J. Glessner and W. H. Jones—and all of them added to the strong preference for competition a definite opposition to trusts, monopolies, and stock speculation." Is that a correct statement? A. That is Mr. Casson's statement.

Q. Mr. Casson continues in his article, "They were not the Wall Street type of millionaire"—A. I think he is correct on that.

Q. (Continuing): But the Chicago type. A. Yes, sir; a very different type.

Q. These three men besides yourself you did meet them there at the time the papers were signed? A. Yes, sir.

Q. And also Mr. Plano? A. Mr. Jones.

Q. That was all? A. Yes, sir.

Q. There was Charles Deering representing the Deering Company? A. Yes, sir.

Q. And J. J. Glessner representing the Warder, Bushnell & Glessner? A. Yes, sir.



Q. And W. H. Jones representing the Flano Company? A. Yes, sir.

Q. Now, Mr. Casson proceeds here with the statement, "So the four Harvester Kings went back home until the details of the new combination should be worked out." Do you know, Mr. McCormick, that that is a fact, that the four of you had been there and had gone back home before the 28th of July; have you learned it since? I did not ask you if you knew it then. A. Yes, sir; I heard that they were there during July, whether they were there at one time I do not know.

Q. You have learned it to be a fact that each and all of you four gentlemen have had conferences in New York with Mr. Perkins in reference to the organization of this company and the taking over of these plants before the 28th of July? A. Yes, sir; certainly. We learned it at the time we signed the papers on the 28th.

Q. When before that had you learned it? A. That is the first.

Q. You had inferred right on the start these parties were being consulted? A. Yes, sir.

Q. You and your brothers who were running the McCormick Company? A. Yes, sir.

Q. Mr. Casson then says in the following statement, "Then they were summoned again to New York." Did you return to New York shortly prior to the 28th of July at the request of Mr. Perkins? A. I think I was there three or four times.

Q. But you were away from New York sometime prior to the 28th of July? A. To the best of my knowledge that happened the 28th of July, and before that I was there three or four times.

Q. When you were there with Mr. Jones, Mr. Glessner and these gentlemen representing the four different companies you were there at that time at Mr. Perkins' request? A. I was there; I did not go to be there on the 28th, I was there.

Q. You staid there? A. I probably was there for four or five days before.

Q. Had you gone there as Mr. Casson says, in response to the summons of Mr. Perkins? A. No, sir; when I left the last time I arranged with him about when I would come back. There was no summons.

Q. You went in response to an arrangement and no summons? A. No, sir; no summons.

Q. Did you all, as far as your custom was, go to different hotels? A. I always went to the Manhattan, I don't know where they were.

Q. And each man was handled separately until he was in an agreeing frame of mind. You were dealt with separately? A. Yes, sir; as to what the frame of mind of each man was, I cannot tell.

Q. "This masterly diplomatic campaign was conducted by George W. Perkins—Morgan's most versatile partner; and it gave Perkins a day and a night that he will never forget. From morning until midnight—from midnight until the first ray of dawn slanted down Broadway, Perkins dashed from hotel to hotel, a vertiable human shuttle. Deering conceded one point if McCormick would concede another. Glessner yielded one of his claims, and Jones withdrew



something else. Inch by inch these stubborn men were pushed with in tying distance of one another; and the fifty-year harvester war was about to come to an end.

"The next day Perkins renewed the struggle; but he was too tired to continue the cab driving between hotels. He telephoned the four Harvester Kings to meet him at Morgan's office. As the men climbed the rusty iron steps of the Morgan building, each one was switched by the big Irish doorkeeper into a separate room of that inner suite on the ground floor, where many a broken business has been mended. Four men in four rooms, with Perkins flying in and out—such was the way in which the great harvester company was brought into being. It was a unique situation, as much like an incident in comic opera as an affair of business. But the Morgan experts knew that if the four men were allowed to meet, the old hurtful rivalries would break out afresh, and the merger might vanish like a broken dream.

"To strengthen the new company with a big surplus of ready money, a one-sixth interest was sold for twenty-millions to Morgan and several other New York financiers of the 'old reliable' sort. Also, a fifth harvester company, in Milwaukee was bought from Stephen Bull for about five millions. And when the last rivet had been clinched and the last nail driven home, the four Westerners suddenly found themselves sitting around the same table, as partners in the International Harvester Company of Chicago." You saw him several times? A. That is Casson's pictorial writing. How much is so, I do not know.

Q. He saw you frequently? A. Yes, sir.

Q. He would say that he would come back this afternoon? A. Yes, sir.

Q. He did come back? A. Yes, sir.

Q. And he would go away? A. Yes, sir.

Q. And he would come back at night? A. I couldn't say how many times, in the day he would visit us during the day at the hotel.

Q. What were you talking about? A. About the sale of the McCormick Harvesting Machine Company's business.

Q. To the New Jersey corporation? A. To the company he was to form.

Q. That was to be formed? A. Yes, sir.

Q. These interviews with Mr. Perkins kept you up late at night and extended over in the morning? A. I couldn't remember that part of it, I don't think that is material. I suppose some were in the evening and some in the morning, I do not remember any special time.

Q. "Deering conceded one point if McCormick would concede another, Glessner yielded one of his claims, and Jones withdrew something else?" A. There is nothing in that as far as I know.

Q. At least you didn't concede anything, is that the impression? A. I said I had no knowledge that they were conceding a point, and I was asking a point. It was their agreeing on buying as far as Mr. Perkins himself was concerned.

Q. It required a large part of engineering to come to an understanding between you and Mr. Perkins? A. Yes, sir.

Q. There was some change in it? A. We would insist on some points and yield some points.

Q. "Inch by inch these stubborn men were pushed within tying distance of one another; and the fifty-year harvester war was about to come to an end." You did get to an understanding with Mr. Perkins? A. Yes, sir.

Q. You have learned since these parties got to an understanding with him? A. Yes, sir.

Q. "Next day Perkins renewed the struggle; but he was too tired to continue the cab driving between hotels. He telephoned the four Harvester Kings to meet him at Morgan's office." Did he telephone you to come down next day? A. No, sir.

Q. There was no meeting? A. The meeting I suppose he refers to was the time we met when the paper was signed.

Q. How long following these several visits that Mr. Perkins made to you at the Manhattan was that that this paper was signed, was it the next day or several days? A. I don't know, there were visits quite a number, from July 4th to 28th.

Q. On the occasion when this culminated in the signing of this agreement, that extended over three or four days? A. Yes, sir; I think so.

Q. "He telephoned the four Harvester Kings to meet him at Morgan's office." A. It was at Cravath's office.

Q. That is Morgan's attorney? A. Yes, sir.

Q. "As the men climbed the rusty iron steps of the Morgan building, each one was switched by the big Irish doorkeeper into a separate room of that inner suite on the ground floor, where many a broken business has been mended. Four men in four rooms, with Perkins flying in and out—such was the way in which the great harvester company was brought into being. It was a unique situation, as much like an incident in comic opera as an affair of business. But the Morgan experts knew that if the four men were allowed to meet, the old hurtful rivalries would break out afresh, and the merger might vanish like a broken dream." How about that? A. Nothing of that kind.

Q. That is picturesque? A. Yes, sir; that is imaginative.

Q. You were not closeted in four different rooms? A. No, sir; that was the lawyer's office, the office of the attorney.

Q. Well, did you tell Mr. Cassen of your experience there in New York with Mr. Perkins? A. I never very much in detail.

Q. You talked over the subject with him? A. Just in a general way; yes, sir.

Q. Do you know whether he interviewed Mr. Deering while there in New York? A. Every one that he could reach, I suppose.

Q. Did you four gentlemen talk to Mr. Casson when he was out there? A. Never together, but separate as much as he wished.

Q. You have no information now as to where Mr. Casson got the basis of the alleged facts upon which he makes the statement about four men and four rooms with Perkins flying in and out? A.

I never inquired, it seemed to me so humorous I never thought I would investigate it. I thought it was too much like an incident of comic opera itself.

Q. "But the Morgan experts knew that if the four men were allowed to meet, the old hurtful rivalries would break out afresh and the merger might vanish like a broken dream." Of course what Mr. Perkins thought you do not know? A. I cannot infer.

Q. When you met, there were these three men who had been managers of the companies, rivals of the past. There was no feeling manifest between you? A. On July 28th?

Q. Yes, sir? A. No, sir; none at all. There never had been any feeling.

Q. I mean by that no personal animosity? A. No, sir.

Q. Were these papers drawn up before you went to Mr. Cravath's office or afterwards? A. They were ready for signatures at that time.

Q. Had these been a former paper made out by Mr. Perkins of which this was a reproduction? A. Not that I know of. We looked over the day before a draft of the paper that we were to sign.

Q. At the Manhattan? A. Yes, sir.

Q. You have since learned that a similar paper was submitted to these other gentlemen? A. Yes, sir; I have never seen it, I presume they were the same.

Q. You never examined that? A. No, sir; never.

Attorney-General Herbert S. Hadley, counsel for the Informant:

I will have this paper identified by the witness and marked Exhibit "I" by the reporter for the purpose of identification.

Q. You spoke of the Milwaukee Company as one of your fierce competitors, who were the chief officers of that company? A. Stephen Bull was the President.

Q. You had known him, had you? A. Yes, sir; in a general way.

Q. What do you know about the taking over of the Milwaukee Company by the New Jersey organization? A. As far as I remember the way the Milwaukee came in was this. It was publicly known by a great many people that they were in a frame of mind to sell their business. Mr. Perkins heard of this, and while he was negotiating with us he sent an agent and got an option on their business, and then he afterwards paid for this option and took it up, so that when the new company was formed he stood in the same relation to the Milwaukee company himself as I would have stood to the McCormick Company.

Q. So that company was sold to Mr. Lane the same way the McCormick Company was sold, and the same way the Deering Company was sold? A. Yes, sir.

Q. And the same way the Plano and the Warder, Bushnell & Glessner Co. Who was Mr. Lane? A. He was President of the Standard Trust Company of New York.

Q. He was a financier also? A. Yes, sir.

Q. He was in the harvester machine business? A. No, sir; not at all.

Q. Never had been? A. No, sir.

Q. Neither Morgan nor Perkins had been in the harvesting business? A. No, sir; had never been engaged, never in anything of the harvesting business.

Q. Until the organization of the International Harvester Company? A. No, sir; I never knew of it.

Q. Was it following your first trip of exploration or whatever it was to Mr. Perkins' in June, 1902, that this option had been secured on the Milwaukee plant? A. Yes, sir.

Q. How did Mr. Perkins know that the Milwaukee people were in a frame of mind to sell out? A. In our discussions of the reaper business, we gave him all the information we could. It is quite likely I told him about the Milwaukee Company as all other companies.

Q. On the occasion of your trip to Mr. Perkins, had you known him before? A. Only in a casual way, only slightly, I went to him as I said, I thought he was qualified to give the amount of information that the McCormick people wanted.

Q. You didn't know him personally? A. No, sir; I went to him as an expert in that line of business.

Q. Did you go to him or Mr. Morgan? A. Mr. Perkins.

Q. He was the junior member of the Morgan firm? A. Yes, sir.

Q. How long before that had that firm organized the Steel Trust, is that what prompted you to go? A. Oh, no, sir; I think it was a year before. I knew that they were familiar with the financial operations of the country and of expanding them and furnishing capital for expanding them and we were securing information in several quarters.

Q. When you got there, did you find Mr. Perkins had any knowledge of the harvesting business? A. Yes, sir; he had lived in Chicago several years himself, and he had been a farmer boy, I found he knew more than I thought he did.

Q. In recent years he knew more about insurance business? A. He was in Chicago.

Q. He was an insurance agent down in Wichita. He had such information of the harvester business as any well informed man, that was all? A. Yes, sir.

Q. He inquired about the situation in Chicago and about the grain producing sections, and the competition that was being produced in your companies? A. Yes, sir; we talked over the situation fully.

Q. You told him how many machines your company sold and who your principal competitors were? A. Yes, sir.

Q. You told him of the evils that had resulted according to your opinion by this competition? A. Yes, sir; I told him about the unfavorable practices existing everywhere.

Q. In order to get trade? A. Yes, sir.

Q. In other words, if I understand you correctly, and that is all I want to do, you gave to Mr. Perkins a general and detailed state-

ment of the situation in the harvesting business incident to this new enterprise or did you do that the next time or did you do that in asking his advice? A. Yes, sir; I got all the information I could.

Q. You told him about the status of the Milwaukee Company? A. Yes, sir; I did.

Q. You told him among other things that the six leading companies of the United States were the companies that have heretofore been mentioned, the McCormick, the Deering, the Plano, the Warder, Bushnell & Glessner, the D. M. Osborne and Aultman, Miller & Company? A. I told him not one of these, but all of them, I gave him the whole picture of this company as well as all others.

Q. How did you know Mr. Bull and his associates were in a frame of mind to sell their company, had Mr. Bull told you? A. No, sir; it was a rumor, I don't know just how it was told.

Q. You got that from your knowledge of the business? A. Yes, sir.

Q. Do you know P. D. Middlecoff? A. I do not.

Q. You have since met him? A. I couldn't say that I knew him, I couldn't say that I never had seen him, I don't know him.

Q. Have you since learned that he was the man who secured the option upon the Milwaukee Company? A. Yes, sir; I heard that.

Q. Do you know who furnished that money? A. To secure the option, I suppose Mr. Perkins furnished it.

Q. Do you know? A. I have no knowledge, I imagine because Mr. Perkins bought the Company afterwards. I assume that he must have furnished the money for the option.

Q. Was Middlecoff in business before that? A. Yes, sir; he formerly had been in the Deering Company.

Q. Was he at that time? A. No, sir.

Q. How long had he been out? A. I don't know, I suppose perhaps a year, I don't know exactly.

Q. Do you know how Mr. Perkins happened to secure the good offices of Mr. Middlecoff? A. No, sir; I do not.

Q. Do you know Rodney F. Swift? A. I do.

Q. Was he with you in New York. He was one of the representatives of the McCormick Company? A. He was on one occasion, but not then.

Q. Was he there when the paper of the 28th was signed, July? A. No, sir.

Q. He was there in an interview with Mr. Perkins? A. No, sir; he was in New York once when I went there, I believe he was there once.

Q. On one of these occasions between June, 1902, and July 28, 1902, when your conferences culminated and the paper was signed, that you have mentioned? A. Yes, sir.

Q. When did you first hear that the option had been secured on the Milwaukee plant? A. About the time the paper was signed.

Q. You knew it before that? A. Probably a day or two before that.

Q. Do you remember the date of that option? A. I do not, I know when it was taken and I don't know now.

Q. Following the last statement I read you from Mr. Casson's article follows this: "Also a fifth harvester company in Milwaukee, was bought from Stephen Bull for about five millions." Was that your understanding of the purchase price? A. I don't think that is the correct price. I think it was much less than that.

Q. One hundred thousand dollars was the price of the option? A. I don't know what the price of the option was. I think the price that was paid was a good deal less than that.

Q. Out of funds that were for the International Company? A. They allowed the same price Mr. Perkins paid, whatever that was.

Q. It was much less than five millions? A. Yes, sir; I think about three or three and a half millions.

Q. Following that statement of Mr. Casson's is this: "And when the last rivet had been clinched and the last nail driven home, the four Westerners suddenly found themselves sitting around the same table, as partners in the International Harvester Company of Chicago." Is that correct? A. They sat around the same table, that is, July 28th for the first time.

Q. You agreed upon the name of the new company? A. No, sir; we did not.

Q. Was the name of the International Harvester Company of Chicago considered? A. No, sir.

Q. When was the International suggested and by whom? A. By Mr. Perkins, some time after that.

Q. You did not agree on any name at that time? A. No, sir.

Q. Well, this transfer of the Milwaukee Company was made to Mr. Lane? A. Yes, sir.

Q. And the transfer of your company was made to Mr. Lane? A. Yes, sir; it was.

Q. And the other company was made to Mr. Lane? A. Yes, sir.

Q. Mr. Lane was simply a trustee? A. As I understood it, he was the financial channel through whom Mr. Perkins proposed to organize this company.

Q. You did not understand that Mr. Lane was the financial owner of any of these companies? A. All we knew was that we were to sell to him and he would furnish us with the stock.

Q. You understood Mr. Perkins was empowered to carry out the program. You did not understand Mr. Lane was to take your properties and hold them and run them? A. No, sir; he was to form the company.

Q. He was to hold them until the company was to be formed? A. No, sir; he was the channel.

Q. In other words, Mr. Lane was the conduit through which the other company was to flow into the International Company, is that not correct? A. You can use that if you want to. I call it the financial channel, you can call it the conduit. We did not suppose Mr. Lane was to run the business. He was agreed upon because he was rec-



organized as a responsible man. We wanted somebody that was a responsible party.

Q. It was the understanding, I suppose if not in this contract, that Mr. Lane was to transfer these properties over to the new company when organized? A. Yes, sir.

Q. How soon did this work of the appraisal of these companies which went into the International Company begin? A. That was begun by these three appraisers, after the appraisal. That must have begun in October or possibly November, it was begun certainly before cold weather.

Q. From July 28th up until the time of the time you found out the amount of stock you were to get for the McCormick Company's interest, did you continue to run your company independently of all others? A. We did for a few days. As soon as the new company was organized we had a directors' meeting. The directors met very soon.

Q. That was August 12th? A. Yes, sir.

Attorney-General Herbert S. Hadley: I suppose this examination could be shortened if I had time to read this paper over, as I am asking questions that would be made entirely clear to me on examination of the paper, and I suggest that we might adjourn now until this afternoon.

Hon. Theodore Brace, Commissioner: We will now take a recess, gentlemen, until 2 p. m.

2 O'clock p. m., Thursday, May 7, 1908.

Examination resumed by Attorney-General Herbert S. Hadley, Counsel for the Informant:

Q. In whose name was the option upon the Milwaukee plant taken? A. I really do not know unless it was in the name of the man you spoke of, Mr. Middlecoff.

Q. Did Mr. Perkins know Mr. Middlecoff when you first went to see Mr. Perkins? A. I don't know.

Q. Do you know how Mr. Middlecoff happened to be sent to the Milwaukee Company? A. No, sir.

Q. Not at your suggestion? A. No, sir.

Q. Have you learned since, it was at the suggestion of somebody connected with the Deering Harvester Company? A. No, sir.

Q. You knew Mr. Perkins was conferring with Mr. Deering when he was conferring with you? A. Yes, sir; I have since learned it.

Q. You have not learned that Mr. Perkins was consulting with Mr. Middlecoff at the suggestion of Mr. Deering? A. No, sir.

Q. That option was obtained prior to July 28th? A. Yes, sir; I understood it.

Q. I understood you to say that at the time the papers were signed up in Mr. Cravath's office that Mr. Perkins was standing in the same relation to the Milwaukee plant that you were to yours, and Mr. Deering was to his? A. I understood so because he told us at that time that he would act for the Milwaukee Company in selling that in the same way.



Q. Was the same contract made for the transfer of his Milwaukee plant to Mr. Lane as by the other companies present there?  
A. I do not know, I should not think so.

Q. What sort of transfer was made for the Milwaukee plant?  
A. I never heard of any transfer being made, it was paid for in cash.

Q. When was that payment made? A. I don't know, that that amount had been paid—I don't know just when, perhaps just before the 28th of July.

Q. You speak of the Milwaukee plant, what corporation do you refer to? A. I mean the respondent corporation, it was then the Milwaukee Harvester Company.

Q. Can you state when that money was paid? A. I told you I thought it was just previous to July 28th. Mr. Perkins had taken the option on the Wisconsin Company, and the option had been paid for in cash before July 28th, perhaps a few days. I don't know how long before, say that on the 28th, when we signed our paper agreeing to sell our company, we learned then or just immediately before that, that, the Milwaukee Company was available for the formation of that company.

Q. And so then instead of having this contract made such as was made by the Deering Company and your company, and marked Exhibit "A," the option served the purpose in that instrument in the case of the Milwaukee plant? A. I don't know about that. The difference was this. In the McCormick, we agreed to take an indefinite sum whereas with the Milwaukee plant there was no appraisal and a specified price paid.

Q. A price agreed on and paid? A. Yes, sir.

Q. Had you discussed with anybody what price should be paid for the Milwaukee plant? A. No, sir; I never, nothing.

Q. You know what ones that did go into that corporation had discussed or agreed on the price of the Milwaukee? A. No, sir; I suppose as I never heard—

Q. Did you know when you signed the paper the amount paid for the Milwaukee plant? A. Yes, sir; we did.

Q. You knew the amount of stock in the new company that was to be used for that? A. Yes, sir; substantially, as I said this morning a little over three millions of dollars.

Q. At that time had the plant of the Milwaukee company been secured? A. I suppose when the money was paid the stock was provided by Mr. Perkins, I don't know.

Q. I mean the capital stock? A. I suppose he got everything there was, I don't know what he got.

Q. I see by the answer here that it is stated that the capital stock was not secured until some weeks after the 28th of August, and now you say it was, that the stock of the Milwaukee Harvesting Company was secured the 28th of July? A. I don't know that they refer to the same thing. The answer refers to the manner the new company secured the stock of the Milwaukee Company upon which the name was changed. I understood you to refer at the time Mr.

Perkins as an individual himself got the stock under the option.

Q. Now did Mr. Perkins hold that there some time, from July 28th, until September 30th? A. I suppose he must have held it some weeks, just how long I don't know, but the time when we first learned that the new company, the Harvester Company would get the stock, was at the time that, after the company had been formed, the lawyers decided to make use of the Wisconsin Company as a selling company, then it was necessary to have the stock in order that the name might be changed, and the details of that transaction carried out.

Q. When was that? A. That was just about the first of September.

Q. And when was it that your final transfers were made, the 18th of September? A. Our final transfer?

Q. To Mr. Lane? A. We made that on the 12th of August.

Q. When did Mr. Lane transfer to the new company? A. He must have done that sometime between these two dates.

Q. What dates? A. August 12th and 1st of September.

Q. When did you get the stock in the International which you were to receive under your contract? A. You mean the McCormick's interest?

Q. Yes, sir. A. We didn't get that stock for several months, I can't remember when we got it.

Q. When was the amount of the appraisement determined? A. The appraisers, as I said before, began sitting in the fall of 1902, and they sat all that winter long until the summer, and I think it was perhaps in July before the work, it was in the hot summer after sitting all winter.

Q. Not until July, 1903, that the McCormicks knew what interests you would get in the International Harvester Company for having transferred their interests? A. Yes, sir.

Q. You say it was the first of September, that the lawyers who were negotiating and conducting this transfer determined that you would maintain the Milwaukee Company in existence? A. Yes, sir.

Q. Was it then decided you would take over the stock? A. Yes, sir.

Q. When was the stock actually transferred? A. I suppose it was within a few days of that time, I don't know, that was a legal detail; I did know at the time.

Q. I notice in your answer in the interrogatories in the Kansas suit, by that I mean the state against the same company, substantially the same allegations, you stated that the stock of the Milwaukee Company was transferred to the International on September 30, 1902? A. It was done as of date, September 30, that was the date, whatever the answer shows would be better than my memory.

Q. How did it happen the name of the company was changed on September 5, 1902? A. Well, I don't suppose it would be very material whether the stock was in the hands of Mr. Perkin's firm or Mr. Lane, so far as the preparations for holding that meeting selecting that change of name for the selling company.

Q. So, for the purpose of using the Milwaukee Company the stock was as safe in Mr. Perkin's hands as Mr. Lane's? A. Yes, sir.

Q. Mr. Perkins was a very material factor in the transaction? A. Yes, sir.

Q. When he had that stock, it was then that the lawyers suggested the advisability of using it in a certain way, for the new company to have it? A. Yes, sir.

Q. The suggestion to use the Milwaukee Company was not the original suggestion, that was an afterthought? A. The first idea was as I said this morning, was to form a new company, either in Illinois or New York, but the time required to form that company and the details to go through impressed the lawyers that the autumn was passing away, and it was necessary that something should be done soon, and one of the greatest obstructions was that in some of the states, as the answer shows, that it could not do business in some states, but the Milwaukee Company was qualified to do business in nearly all of the states.

Q. It was your idea that the Milwaukee Company was to be used as a medium to do business in the states where your company was prohibited? A. It was the idea for the Milwaukee Company to be the company to do business, and it was qualified where others were not qualified.

Q. It would be in some states where your company could not get in? A. Yes, sir; for instance, Missouri. We could not get in at all.

Q. It was the idea to have your new company to own all the stock and do the business for the Milwaukee Company? A. Yes, sir; in Colorado it was very difficult to get in and get a license, but the fact that the Milwaukee Company was ready to do business, was the chief factor that decided that at the last moment in taking that company for the selling company.

Q. That and the other consideration that your new company could not get into some states? A. Yes, sir.

Q. Now, has your company (by that I mean the International of New Jersey) in its possession contracts that were made with the Deering Company and the Plano and the Warder, Bushnell & Glessner— A. The New Jersey never had any of these contracts; these contracts were the individual property of the various people that signed them.

Q. Have you seen, since this company was formed, the contract that was made with the Deering and the Plano and the Warder, Bushnell and Glessner Company? A. I never saw, as I think I said this morning, any of them except the McCormick.

Q. Your understanding is they were about the same? A. Yes, sir.

Attorney Herbert S. Hadley, counsel for the informant:

I offer these in evidence now, the contract between the McCormick Harvesting Machine Company and William C. Lane, of date July 28, 1902, and being marked Exhibit 1 by the reporter. I would like to ask if the counsel for the respondent have any objection to its introduction?

Judge Sheldon P. Spencer, counsel for the respondent:

We have none.

Hon. Theodore Brace, Commissioner:

Let the record show that the same is offered and read in evidence, and here appears in words and figures as follows, to wit:

COPY.

AN AGREEMENT, made and entered into this 28th day of July, nineteen hundred and two, by and between the McCormick Harvesting MACHINE COMPANY (hereinafter called the "Vendor"), party of the first part, and WILLIAM C. LANE (hereinafter called the "Purchaser"), party of the second part.

WHEREAS, the vendor is a corporation duly organized and existing under the laws of the State of Illinois and owns certain manufacturing properties located at Chicago, Illinois, and employed in the manufacture of harvesting machinery and other properties intended for use in connection therewith; and

WHEREAS, the Purchaser desires to acquire said properties and intends, upon the acquisition of said properties, to sell, convey and transfer the same to a corporation now existing or hereafter to be organized under the laws of the State of Illinois, or other state (hereinafter called the "Purchasing Company"), with capital stock as hereinafter provided;

NOW, THIS AGREEMENT WITNESSETH, that the parties hereto have agreed and covenanted as follows:

FIRST. The Vendor agrees, for the considerations and upon the terms hereinafter stated, to sell, assign, transfer, convey and deliver unto the Purchaser, his nominee or assign, by good and indefeasible title, free and clear of incumbrances, indebtedness and liabilities, except as herein stated, and the Purchaser agrees to purchase, all and singular the real estate, factories, plants, buildings, improvements, machinery, patterns, tools, apparatus, fixtures and appliances of the Vendor, and all the patents, inventions, devises, patent rights, licenses, trade-marks, trade-names and good-will of all and singular said property as a going concern, and also all of the products manufactured and in process of manufacture, materials, supplies and merchandise on hand at the time of closing said sale, and all and singular its then pending contract for the purchase of property or materials or the sale of product; also, all interest in fiber lands, as well as all other property of the Vendor, appertaining to the Vendor's business aforesaid. There shall also be sold and purchased with said properties \$20,000,000 (at face value and accrued interest) of bills and accounts receivable, representing the sales made by the Vendor. Such bills and accounts receivable are to mature prior to March 1, 1905, and are to be guaranteed as hereinafter provided. Cash may be substituted for the whole or any part of such accounts and bills receivable, at the option of the Vendor.

SECOND. The Vendor agrees that, as soon as practicable after the execution of this instrument, it will, in pursuance of due authority to be conferred by the vote or consent of all its stockholders, duly execute and acknowledge, and cause to be forthwith deposited with J. P. Morgan & Co., or a trust company designated by them, as depository,

proper deeds and other instruments of conveyance and sale for the granting, conveying and transferring, as aforesaid, unto the Purchaser and its assigns, all the property hereinbefore recited, together with evidence of the vote or consent of the stockholders of the Vendor, as aforesaid. Such depositary shall hold the said deeds and other instruments in escrow and deliver the same to the Purchaser, or upon his order, only upon receiving for account of the Vendor the consideration hereinafter provided, and upon the performance by the Purchaser of the provisions hereof.

**THIRD.** The Vendor agrees to deliver to said depositary, as soon as practicable, full statements in respect of its property and its assets and liabilities, its contracts for the purchase of materials and other property and for the sale of its manufactured products, and otherwise, relating to its property and business. The Vendor agrees that, pending the performance of and while this contract is in force, it will not, without the written consent of the Purchaser, or of said Purchasing Company, enter into any new contracts or assume any new obligations or make any purchases or sales such as are necessary and customary in the ordinary conduct of its regular business or to maintain it as a going concern and except such as may be necessary for the performance of agreements already entered into; nor make payments in advance of their maturity on pending contracts. The Vendor further agrees that during and while this contract is in force, no increase shall be made in its capital stock or in the capital employed in its business, and no bonds issued, and that no mortgage, lease or conveyance shall be made upon or in respect of its real estate or plant without the written consent of the Purchaser; and, also, that in case of any difference of opinion between the Vendor and the Purchaser in relation to the conduct of the business of the Vendor, such difference shall be decided by J. P. Morgan or George W. Perkins, whose decision shall be final. All service contracts of the Vendor taken over by the Purchasing Company shall be terminable on sixty days notice, unless specific cases otherwise determined by said Purchasing Company; and the Vendor shall indemnify the Purchasing Company against any claim under profit sharing contracts. In the case of any property delivered to the Purchaser by the Vendor, which is subject to incumbrance, the amount of the incumbrance shall be deducted in determining the value thereof.

**FOURTH.** The Purchaser and said Purchasing Company, and his or its nominees, the appraisers, accountants and counsel, shall have the right to examine the deeds and other instruments of conveyance and transfer so to be deposited by the Vendor with the depositary, as aforesaid, and shall, if the Purchaser shall so require, be furnished with abstracts of title, title deeds and surveys, which may facilitate the examination of the title to the property to be conveyed or transferred, and shall have free access to all the deeds, contracts, books and records of the Vendor for the purpose of examining and verifying the statements made with respect to its property, business assets, liabilities and corporate status.

**FIFTH.** The purchase price to be paid by the Purchaser to the Vendor for all and singular said property, shall be the aggregate of the

several appraisals and valuations hereinafter provided for, and of said accounts and bills receivable and cash, if any, and shall be payable in full paid and non-assessible shares of the capital stock of said Purchasing Company taken at par.

In order to make such appraisals and fix and determine such valuations, the property of the Vendor shall be classified as follows:

(1) Real estate, buildings, factories, warehouses, fixtures, machinery, tools, patterns, drawings, moulds, and all other personal property used in connection with or appertaining to the Vendor's business and which is not intended for sales in the ordinary course of business or to form part of or to be consumed in the manufacture of the Vendor's products, and including pending contracts for purchase of real property and for construction of buildings or fixtures, but not including the property and contracts otherwise classified. The assets of this class are hereinafter collectively designated as "Plant."

(2) All materials on hand, manufactured, unmanufactured or in process of manufacture, including any and all articles intended to form part of or to be used in manufacturing the Vendor's product. The assets of this class are hereinafter collectively designated as "Materials on Hand."

(3) Unexecuted contracts or orders for the sale of the Vendor's manufactured products, but not including contracts or orders for deliveries after the year 1902, for which latter contracts and orders (although to be transferred) no allowance shall be made. No allowance shall be made for contracts or orders for delivery prior to January 1, 1903, unless the material necessary for the completion of the machines or other manufactured products shall be in the possession of the Vendor and upon its plant at the time of the appraisal. Such contracts are hereinafter collectively designated as "Pending Sales."

(4) All contracts heretofore entered into by the Vendor for the purchase of material to be used in the manufacture of its products. Such contracts are hereinafter collectively designated as "Material Contracts."

(5) The railroad property and equipment belonging to the Vendor, including the lease which has been agreed upon with the Atchison, Topeka & Santa Fe Railroad Company, such property being hereinafter designated as the "McCormick Railroad."

(6) Patents, patent rights, devices, inventions, licenses, trademarks, trade-names and good-will, including the value of the established business, name, standing in the trade, stability of business, organization, trade or custom as a going concern. Such assets are hereinafter collectively designated as "Patents, Good-will, etc."

The value of the plant, as above defined, shall be ascertained and determined by three appraisers, who shall fix the present value of such plant as a going concern. One of such appraisers shall be nominated and appointed by the Vendor, and the other two by J. P. Morgan & Co.

The present value to a going concern of said materials on hand, of the said pending sales, and of the said materials contracts, as above defined, shall similarly be determined by three appraisers, one to be



nominated and appointed by the Vendor and two by J. P. Morgan & Co. Such appraisers shall make allowance in their judgment for unprofitable contracts.

The value of the McCormick Railroad to a going concern, as above defined, shall be determined by J. P. Morgan or George W. Perkins.

The value of the patents and good-will shall, for the purposes of this contract, be a sum equal to the net profits of the Vendor during the two years ending November 30, 1902, as ascertained in the manner hereinafter provided, plus ten per cent thereof; and to such amount shall be added the value of the name, standing in the trade, stability of business, organization, trade, custom, etc., of the Vendor as a going concern, which value shall be fixed by J. P. Morgan or George W. Perkins in his sole discretion.

The profits of said two years shall be ascertained and reported to J. P. Morgan & Co. by three accountants, one of whom shall be nominated by the Vendor and the other two by J. P. Morgan & Co. In calculating the net profits of the business, there shall be excluded all allowance for interest on bills and accounts receivable as well as the cost of collecting bills and accounts receivable, and all interest paid or payable on moneys used by the Vendor and belonging to the trustees of Mary V. McCormick or Cyrus H. McCormick, Harold F. McCormick or Stanley McCormick and interest on the sum of \$1,000,000 borrowed by the Vendor on the security of property belonging to the Messrs. McCormick individually. Said accountants, in calculating the net profits for said two years, shall make allowance for depreciation or loss, if any, on bills and accounts receivable, for depreciation or loss, if any, of materials on hand, or for depreciation, if any, of the said plant from wear and tear or otherwise. In each case hereinbefore enumerated the decision, appraisal or report of a majority of the appraisers or accountants or the decision of J. P. Morgan or George W. Perkins (if sole arbitrator or appraiser), as the case may be, shall be binding and conclusive upon the parties hereto.

SIXTH. Payment of the amount of all contracts or orders for sales of manufactured products included as assets of the Vendor as aforesaid and transferred under this contract, shall be guaranteed to the satisfaction of J. P. Morgan & Co. by the Vendor, and the net value thereof shall be appraised on that basis. Any and all accounts and bills receivable transferred by the Vendor hereunder shall be taken as their face value and accrued interest to date of transfer; but the Vendor shall guarantee and hereby does guarantee that the Purchaser or Purchasing Company shall realize thereon such face value and interest accrued and to accrue and that said principal and interest shall all be received on or prior to the first day of March, 1905. The collections shall be made by the Purchasing Company, but the expenses of collection shall be borne by the Vendor. Pending such collections, the Vendor agrees to advance and pay to the Purchasing Company on demand, from time to time, on account of such guaranty such amounts as the board of directors of the Purchasing Company may determine or convenient for the conduct of its business, but not in excess of such amounts as J. P. Morgan & Co. may from time to time approve. If such advance



payments be made by the Vendor, then the Purchasing Company shall transfer to the Vendor or its nominees an equal amount in principal and accrued interest of uncollected accounts or bills receivable of the earliest maturities. The Purchasing Company may take such measures as to it may seem wise, for the collection of the accounts and bills receivable and grant extensions and indulgences to debtors by whom the same are payable without release of or prejudice to such guaranty or extension or change of the obligation of the Vendor to make payments as aforesaid. The Purchasing Company shall from time to time, on demand, furnish the Vendor a full statement showing which accounts and bills receivable remain unpaid, and what, if any, disposition has been made in regard thereto or steps taken to enforce the collection thereof.

The Vendor shall secure the guaranties in this article provided for, by collateral or otherwise, to the satisfaction of J. P. Morgan & Co. in their discretion.

SEVENTH. The Purchasing Company shall have such corporate title, capital stock, organization, by-laws, directors and committees as may be approved by J. P. Morgan & Co., and shall have, in addition to materials on hand and inventories, a working capital of \$60,000,000 to be represented by cash or bills and accounts receivable guaranteed as aforesaid.

EIGHTH. The amount and the classes (if there be more than one class) of the capital stock of the Purchasing Company shall be determined after the ascertainment of the aggregate value of all its assets and properties; but such amount and such classes shall severally be satisfactory to J. P. Morgan & Co. If however, there be only one class of stock, the capital stock, the capital stock shall not exceed \$120,000,000 par value, even though the aggregate value of the assets and properties of the Purchasing Company be in excess thereof. If there be both preferred stock and common stock the preferred stock shall not exceed \$120,000,000 par value and shall entitle the holders to cumulate preferential dividends at the rate of but not to exceed six per cent per annum and accumulated dividends; and the common stock shall not exceed the remaining value of the corporate assets and properties as so determined, which value may be ascertained and determined irrespective of the special appraisals which are to be made under this agreement.

If there shall be two classes of stock, then and in that event, the Vendor shall be entitled to receive as additional purchase price under this agreement common stock to an amount that shall bear to the total issue thereof the same proportion that the preferred stock to be received by the Vendor under this agreement shall bear to the total issue of preferred stock.

NINTH. The purchase provided for in this contract shall take effect as of such day in September, 1902, as shall be designated by the Purchaser with the approval of J. P. Morgan & Co.; the appraisals shall be made as of such dates as nearly as practicable, and the performance of the contract shall be completed prior to January 1, 1903.

TENTH. The charter or certificate of incorporation or organiza-

tion of the Purchasing Company shall provide, among other things, that the capital stock of the corporation shall not be increased or diminished except upon the affirmative vote or consent of the holders of at least two-thirds of each class of the outstanding capital stock of the company. Said charter or certificate may also provide that the stockholders may enter into a voting trust of their stock for a limited period. The charter or certificate shall likewise provide that no mortgage or lien upon the real property, plants, tools or machinery of the Purchasing Company shall be created without the affirmative vote or the consent of the holders of at least two-thirds of each class of the outstanding capital stock.

**ELEVENTH.** The Vendor undertakes and agrees that it, or the holders of the stock of the Purchasing Company so to be issued in payment for the property to be transferred and conveyed under this agreement, shall deposit their stock with J. P. Morgan & Co. or a trust company to be designated by them, as depository, upon a voting trust, which shall provide, among other things, for the appointment of three voting trustees, one of whom shall be J. P. Morgan or George W. Perkins and the other two shall be persons appointed by J. P. Morgan & Co. The voting trust agreement shall be for the period of ten years, with provision, however, that it may be terminated at any time after the expiration of five years upon ninety days' notice, if a majority of the voting trustees shall so decide. The capital stock of the Purchasing Company shall be transferred to such voting trustees, who shall issue transferable certificates of beneficial interest entitling the holder to any dividends, distribution of profits and subscription rights which may accrue in respect of the stock so held by the voting trustees, and upon the termination of the voting trust entitling the holder to a proportionate amount of the stock so transferred to the voting trustees. The form, terms and provisions of the voting trust agreement shall be subject to the approval of J. P. Morgan & Co. The voting trust agreement shall contain adequate restrictions upon the voting power of the voting trustees in respect of an increase or diminution of capital stock, or the creation of any mortgage as aforesaid, so that any vote or consent by the voting trustees for any such increase or diminution, or mortgage, shall be given only upon the affirmative vote or written consent of the owners of a corresponding amount of the voting trust certificates of interest outstanding.

The Vendor, or a majority of its stockholders, shall further agree with J. P. Morgan & Co. that during the first year after the issue of such stock or voting trust certificates, the Vendor or its stockholders shall own, and shall refrain from selling or otherwise disposing of, at least eighty per cent. of the original holdings acquired under this agreement or otherwise; during the second year at least sixty per cent. of such original holdings; during the third year at least forty per cent. of such original holdings; and thereafter and during the existence of the voting trust, at least one-third of such original holdings; provided, however, the Vendor (or its stockholders) may at any time after the expiration of the fourth year withdraw from the custody of J. P. Morgan & Co. and sell or otherwise dispose of, the re-

maining one-third of said original holdings, or any part thereof, but in such case any voting trustee representing such holdings shall immediately resign as trustee if desired by the two remaining trustees.

A successor shall thereupon be appointed by the other two trustees.

As guarantee for the performance of the foregoing covenant not to sell or otherwise dispose of stock or voting trust certificates, the Vendor or its stockholders shall severally pledge with J. P. Morgan & Co. an amount of stock or voting trust certificates equal to the proportion which they have agreed to continue to own, which stock shall be released and delivered to them or upon their orders from time to time as they may become entitled to sell; but, except as herein otherwise provided, one-third of the total original holdings as aforesaid shall remain pledged with J. P. Morgan & Co., during the existence of the voting trust.

In case during the first year after the issue of said stock by the Purchasing Company the Vendor shall desire to sell any of the stock of voting trust certificates which it is free to sell under the provisions hereof, it shall offer the stock to J. P. Morgan & Co. by notice in writing, specifying the amount of the stock and the price at which the same is offered, and the Vendor shall be entitled to sell such stock to others only in case J. P. Morgan & Co. shall not within twenty days thereafter purchase said stock at the price named in the notice or at a price satisfactory to the Vendor.

**TWELFTH.** This contract, or any part thereof, may be transferred by the Purchaser to the Purchasing Company, and such Purchasing Company may thereupon enforce all and singular its terms and conditions as fully to all intents and purposes as if it were a party thereto. The place of performance of this contract shall be at the office of the Hudson Trust Company, Hoboken, New Jersey.

**THIRTEENTH.** The individual holders of a majority of the capital stock of the Vendor shall jointly and severally guarantee the performance of this contract by the Vendor as well as the substantial performance of all and singular the covenants, agreements and guaranties which may survive the dissolution of the Vendor, should such dissolution be finally determined upon.

The individual holders of all the capital stock of the Vendor shall, as soon as practicable, and before the final consummation of this contract, cause to be deposited with J. P. Morgan & Co., or with a trust company to be designated by them, as depositary, certificates representing all the capital stock of the Vendor, duly indorsed for transfer in blank, and such depositary, upon the Vendor receiving said purchase price, shall deliver said certificates to the purchaser, his nominee or assign, but the original stockholders shall be entitled to all payments payable upon said stock as their distributive share of the purchase price hereunder, or of any other assets of the Vendor not herein undertaken to be conveyed or transferred.

**FOURTEENTH.** The Purchaser undertakes to duly secure by contract the appointment of J. P. Morgan & Co. as the fiscal agents of the Purchasing Company and their acceptance of such appointment in order that the Purchasing Company may secure and have the benefit

and advantage of the advice of said firm in the management of its financial affairs.

If any dispute should arise under this contract as to its true intent or meaning, or in respect of the performance of any part thereof, whether between the parties hereto or between the Vendor and the Purchasing Company, the matter in dispute in each and every case shall be left to J. P. Morgan or George W. Perkins as sole arbitrator, and the decision of such arbitrator shall be binding and conclusive upon the parties.

**FIFTEENTH.** In case any appraiser, arbitrator, accountant or voting trustee shall for any reason fail or cease to serve, then and in said event another or a successor shall be nominated and appointed in his place by the Vendor or by J. P. Morgan & Co., respectively, as the case may be, subject, however, in the case of voting trustees, to the provisions of the voting trust agreement.

References in this agreement to J. P. Morgan & Co. shall apply to that firm as now or hereafter constituted.

**IN WITNESS WHEREOF**, the party of the first part has caused these presents to be executed in its corporate name by its president and its corporate seal to be hereunto affixed attested by its secretary, and the party of the second part has hereunto set his hand and seal the day and year first above written.

**McCORMICK HARVESTER MACHINE COMPANY,**

By **CYRUS H. McCORMICK,**

President.

Attest:

**HAROLD F. McCORMICK,**

Secretary.

**WM. C. LANE.**

[SEAL]

Statement by Cyrus H. McCormick, witness on the stand: A. I would like to say that contract came from our possession and is not the property of the McCormick Harvester Company.

Q. I notice that this is made and entered into on the 28th of July, 1902, and that the McCormick Harvesting Machine Company (hereinafter called the Vendor) is party of the first part and that William C. Lane (hereinafter called the Purchaser) is party of the second part and that the Vendor conveys all of the property of the McCormick Harvesting Machine Company employed in the manufacture of harvesting machinery and other properties intended for use in connection therewith and that the Purchaser desires to acquire said properties and intends, upon the acquisition of said corporation to sell, convey and transfer the same to a corporation now existing or hereafter to be organized under the laws of the State of Illinois or other state (hereinafter called the "Purchasing Company,") with capital stock as hereinafter provided." Now the Purchasing Company referred to in this contract is the International Harvester Company of New Jersey?

A. Yes, sir.

Q. It is the International Harvester Company of New Jersey that was organized in response to this contract in Mr. Cravath's office together with other companies there? A. Yes, sir; that is true.

Q. It was at that time that the same arrangement was made in effect by them in the formation with other companies as far as the Milwaukee Harvester Company was concerned on the 28th of July?  
A. Yes, sir.

Q. Now it took you some days to get these transfers made and during that time you had kind of a temporary arrangement according to the contract in which there was no increase of capital stock and the matter was to remain in statu quo? A. Yes, sir.

Q. Now that same condition obtained on the part of other companies going in? A. Yes, sir.

Q. And also the Deering Company? A. Yes, sir.

Q. When did the actual management begin on the part of the International Harvester Company of New Jersey. When did you have a new change of officers and so on? A. The new officers of the company were elected by the new Board of Directors immediately, I should say either the end of August or the early part of September, it was not a lapse of more than two or three weeks, there was a hiatus for two or three weeks, not any longer than that.

Q. You moved as quickly as possible? A. Yes, sir.

Q. Who were the first Board of Directors and who were the list of officers as chosen? A. I have the list here. I think Mr. Baneroft has that list.

Selden P. Spencer, counsel for the Respondent:

We will furnish the list of the directors to you.

Q. You were president to start with? A. Yes, sir.

Q. Mr. Charles Deering was what? A. Chairman of the Board of Directors.

Q. What was Mr. Jones? A. Vice-president.

Q. What was Mr. Glessner? A. Vice-president.

Q. I think I have the list here. A. There it is, both companies are there.

Q. Now Charles Deering as chairman of the Board of Directors appears above you in this list, is that simply a courtesy on your part, did they rank above you? A. No, sir; no ranking above the president, that is the form of putting it.

Q. I didn't know whether in this company there was any ranking as to the chairman of the Board of Directors and the president, in some companies the chairman of the Board of Directors is superior to the president and some places the president is superior to the chairman, any way it was not so here, Charles Deering was one of the Board of Directors of the Deering Company? A. Yes, sir.

Q. Cyrus H. McCormick was a member of the Board of Directors of the McCormick Company? A. Yes, sir.

Q. Charles Deering is a director of the International Harvester Company of America and also of the International Harvester Company of New Jersey? A. Yes, sir.

Q. Harold F. McCormick is your brother? A. Yes, sir.

Q. He was a vice-president and with the McCormick Company?  
A. Yes, sir; he was a vice-president of the McCormick Company.

Q. He was also of the International? A. Yes, sir.

Q. J. J. Glessner he is a director of the International Harvester Company of America and a vice-president of that company and also the New Jersey Company? A. Yes, sir.

Q. He was also a vice-president of the Warder, Bushnell & Glessner Company? A. Yes, sir.

Q. W. H. Jones was a vice-president of the International? A. Yes, sir; and president of the Plano.

Q. Richard F. Howe is secretary of the International Company, he was a partner of the Deering Harvester Company and a brother-in-law of Mr. Deering? A. Yes, sir.

Q. Harold F. McCormick was treasurer and the same one you referred to? A. Yes, sir.

Q. Now of the directors, George F. Baker? A. He is president of the First National Bank of New York.

Q. He is not a harvester man? A. No, sir.

Q. What particular interest did he represent in this new concern? A. Some of the New York capitalists that subscribed money.

Q. Did he represent Morgan interests? A. No, sir; not especially. He subscribed for some stock himself and was proposed to the first board by Mr. Perkins.

Q. He was nominated by Mr. Perkins? A. Yes, sir.

Q. Did he own any considerable stock himself or a dummy director? A. I think he owned some stock, I don't know how much.

Q. Did he own more than one share? A. I think so.

Q. Cyrus Bentley? A. He was a member of the McCormick Harvester Company, he was the first general counsel of the new company, the predecessor to Mr. Baneroft.

Q. He was a lawyer in Chicago? A. Yes, sir; he was the counsel for the McCormick Harvesting Machine Company and he represented the McCormicks in the preparation of the legal papers.

Q. For the transfer to the International? A. Yes, sir.

Q. Did he own more than one share of stock? A. Yes, sir; he had a small holding more than one share.

Q. Just a qualifying holder? A. He came in as one of the McCormick members.

Q. P. D. Cravath was the lawyer in whose office this was completed? A. Yes, sir.

Q. Did he own more than a qualifying share? A. I suppose his holding was quite small, probably one share.

Q. Charles Deering is the chairman of the Board of Directors? A. Yes, sir.

Q. And James Deering is a member of the Board of Directors and also a vice-president of the International Company? A. Yes, sir.

Q. E. H. Gary, he was of the Steel Trust? A. Yes, sir.

Q. Did he own more than a qualifying share? A. Yes, sir, I think he held quite a block of the stock.

Q. I notice upon this statement which is furnished in response to our request you have below "Each director holds one share of stock to enable him to qualify." Is that correct? A. One share or more. He must have at least one share to qualify.



Q. Well any way these legal gentlemen you speak of only owned a small number of shares? A. Yes, sir.

Q. Lawyers are not able to hold more than one share. John J. Glessner he is a vice-president of the International Company? A. Yes, sir; he is.

Q. That is the same J. J. Glessner we have referred to? A. Yes, sir.

Q. Richard F. Howe who is the brother-in-law of Charles and James Deering, he married their sister? A. Yes, sir.

Q. And W. H. Jones is the same one referred to? A. Yes, sir.

Q. And your brother Stanley F. McCormick? A. He is my younger brother.

Q. And George W. Perkins is the one you spoke of? A. Yes, sir.

Q. Norman B. Ream he is a New York capitalist? A. Yes, sir.

Q. Formerly of Chicago? A. Yes, sir; he held a pretty large holding.

Q. Whose interests did he represent on the Board? A. None but his own, I think.

Q. You spoke of Mr. Bentley representing the McCormick interest? A. He was our personal counsel.

Q. Was there any agreement as to the number who should be on the Board of Directors? A. No, sir.

Q. When did you agree who should be on the board? A. Mr. Perkins made the suggestion I suppose he did before the first meeting, the first meeting of the board.

Q. You did not agree upon the Board of Directors July 28th, the day you signed up these papers? A. No, sir.

Q. It was a matter of agreement subsequent to that? A. Yes, sir.

Q. Charles Steele, who is he? A. He is a partner of J. P. Morgan & Company.

Q. He represents the Morgan interests? A. Yes, sir.

Q. Leslie D. Ward, who is he? A. He is a man that lives in Hoboken, he was the only man that was a resident of New Jersey.

Q. He was for jurisdiction purposes. He was put on because the laws of New Jersey require one resident as a director? A. Yes, sir; I believe so.

Q. John P. Wilson? A. He is a lawyer of Chicago, he is consulting counsel of the International Harvester Company.

Q. What interest did he represent? A. Just his own, he was a holder of an interest of the McCormick, he was elected on his own personal interest.

Q. He did not own any stock? A. Yes, sir; quite a little block, how much I do not know.

Q. Did he at the time he was put on? A. I don't think so, I think he bought it since.

Q. He just had a qualifying share at that time? A. Yes, sir; I presume so.



Q. Has this Board of Directors continued from 1902 to the present time practically unchanged? A. Yes, sir; they have. I think there was one change.

Q. What change was that? A. Mr. William Deering was a member of the original board, I do not see his name. He resigned and Mr. John P. Wilson was elected in his place.

Q. What you have given here is the present Board of Directors? A. Yes, sir.

Q. On the original Board of Directors the name of Wm. Deering appeared instead of John P. Wilson? A. Yes, sir.

Q. There was formed as shown by this exhibit "A" a voting trust at the time of the organization of the International of New Jersey? A. Yes, sir; there was.

Q. Yourself and Mr. Perkins and Mr. Chas. Deering were the trustees in charge of the International? A. Yes, sir.

Q. And you were given the voting power for ten years? A. Yes, sir; five years or ten years with the privilege of ending it at a five year period.

Q. Did it continue through the five years? A. When the five year period was up it was found best to extend it for the other five years.

Q. So that voting trust has continued? A. Yes, sir.

Q. Coming to the respondent, the International Harvester Company of America, when it was decided for the purpose you have named to continue in existence the Milwaukee Harvester Company its name was changed over to the International Harvester Company of America, was it? A. Yes, sir.

Q. It appears from the state records of this state that this change was made September 5, 1902, does that agree with your recollection? A. Yes, sir.

Q. Now prior to the time when this property in the Milwaukee Company was actually taken over by the International who were in charge of the International Company after Mr. Lane. In charge in the Milwaukee Company. A. My memory is Mr. Middlecoff who carried through the transaction for Mr. Perkins managed the company for a short period of a few weeks.

Q. Who are George P. Miller and Arthur W. Fairchild? A. Employees in the office of the Milwaukee Company, I mean this respondent company.

Q. Are they at the present time? A. I don't know, they may be or may not.

Q. Well when it was decided to continue this company in existence why these men were given the office as president and secretary at the direction of the International Company? A. No, sir; they were put in their position by Mr. Perkins and whatever position they held the property had already been conveyed to the International.

Q. Is not that because they were continued by the Board of Directors of the American Company; but of course the International of New Jersey had taken over the Milwaukee Company before you had changed its name? A. Are you referring to the interim of the three

weeks between the organization of the International Company and the change of the name?

Q. No, sir. A. What board are you referring to?

Q. Board of September, 1902, when Mr. Miller was president and Mr. Fairchild secretary of the Milwaukee Company. A. That board lasted only two or three weeks but after that the directors of the American Company met and I was elected president.

Q. Mr. Miller and Mr. Fairchild were simply what you call accommodation officers? A. They were temporary.

Q. They were simply there until the International of New Jersey could decide on the officers of the International of America? A. They never decided anything after that, for once the International of America was organized, after that the officers were a matter for their board. What happened to the Board of Directors, to the American Board organization was arranged by Mr. Perkins.

Q. Who decided upon the directors of the International of America, the first list? A. Mr. Perkins.

Q. You were elected president? A. Yes, sir.

Q. How did Mr. Perkins happen to be deciding it when the International of New Jersey was already organized? A. It was decided at the first meeting of the American Directors a program was proposed by Mr. Perkins.

Q. You mean a plan was proposed by him? A. Yes, sir; a plan of the officers.

Q. But prior to September 5, 1902, the International of New Jersey had acquired practically all the stock of the Milwaukee Company? A. Yes, sir.

Q. And had secured a change of its name to the International of America? A. Yes, sir.

Q. A large majority of the stockholders held the stock? A. Yes, sir.

Q. Owned all except nine shares of the stock? A. Yes, sir.

Q. Were they in the hands of individuals simply for the purpose of qualifying? A. They were in the hands of individuals by actual ownership. I don't know whether you call it qualifying or not.

Q. They were put in the hands of individuals so they could qualify? A. Yes, sir.

Q. So then the new board of directors were, I mean the Board of Directors of America Company, they were decided upon by the International of New Jersey? A. Yes, sir; practically.

Q. When the International of New Jersey acquired this stock of the Milwaukee Company there how was it transferred? A. I think the stock went from Mr. Perkins to Mr. Lane and from Mr. Lane to the trustees of the stock for the benefit of the stockholders of the International Company of New Jersey as a class.

Q. You formed a voting trust on the part of the respondent company, the International of America? A. Yes, sir.

Q. You and Mr. Perkins and Mr. Deering were the trustees. A. Yes, sir.

Q. The same as the voting trust of New Jersey Company? A. Yes, sir.

Q. That voting trust was to continue for the same length of time? A. Yes, sir.

Q. The first officers or directors of the International of America after the stock and property of that company was subscribed by the International of New Jersey as shown here in this list were Charles Deering, chairman of Board of Directors, Cyrus H. McCormick, president James Deering, Harold F. McCormick, J. J. Glessner and W. H. Jones, vice-presidents, and Richard F. Howe secretary and Harold F. McCormick, treasurer.

Q. These are the directors as shown in this list produced by you? A. Yes, sir.

Q. These are the same gentlemen as we have heretofore been introduced to as the Board of Directors of the International of New Jersey? A. Yes, sir.

Q. The statement at the bottom of this paper is that "Each director holds one share of stock to enable him to qualify." Now that Board of Directors has continued from the time that the stock was acquired by the International Company of New Jersey? A. Yes, sir.

Q. Who were the officers of the Milwaukee Company at the time this Board of Directors was selected? A. You read them, Mr. Fairchild and Mr. Miller.

Q. Who succeeded Mr. Fairchild? A. I succeeded him as president.

Q. You became president of the respondent company in what year? A. 1902.

Q. What month? A. I presume it must have been in September.

Q. Who was the secretary and treasurer? A. Mr. Howe. They are the same officers.

Q. You do not know all the officers, the same officers you say? A. Yes, sir.

Q. The same officers as the International of New Jersey? A. Yes, sir.

Q. Is this voting trust you speak of is that correctly described in that paper? A. It is.

Q. Has not been varied since that time? A. It has not.

Q. In accordance with the understanding of counsel you were asked to produce copies of letters or telegrams signed by yourself between you and Mr. Glessner and Mr. Jones and Mr. Deering or Mr. Gary or Mr. Morgan or Mr. Lane in 1902, have you produced these papers? A. I had search made but there were none, there were no communications of the nature at all that you asked for.

Q. How much stock in the International of New Jersey Company did the McCormick interest get for the transfer of their plant? A. You referring to the appraisal board?

Q. I simply want the aggregate. According to exhibit one the property of the McCormick Harvesting Machine Company was to be paid for by the International of New Jersey Company in stock in that company? A. Yes, sir.

Q. How much stock did the McCormick Harvester Machine Company get? A. The company got two classes of stock, one they bought and paid for in cash, another they got for their tangible property.

Q. Do you refer to what did they get for their tangible property? A. I will have to get that figured for you, I couldn't tell exactly. It was considerably over twenty millions, something over twenty millions.

Q. In the way of the plant and all of their assets of the McCormick Harvesting Machine Company as shown and in accordance with Exhibit 1 it was turned over to the New Jersey Company and paid for in stock of the International New Jersey Company? A. It was.

Q. And the plant and the assets of the Deering Harvester Company was turned over to the International of New Jersey and paid for in stock of the International of New Jersey? A. Yes, sir; it was.

Q. In case of the Plano all the plant and all the assets of that company was transferred to the International of New Jersey and paid for in stock of the International of New Jersey Company? A. Yes, sir.

Q. And the plant of the Warder, Bushnell & Glessner was transferred to the International of New Jersey and paid for in stock of the International of New Jersey? A. Yes, sir; they were.

Q. Now the stock of the International of New Jersey that paid for the plants and properties of these four companies amounted to how much in the aggregate, do you know that? A. I think I can give you that. According to this Exhibit "B" which I had prepared to answer all these financial questions that you might ask me, it shows \$53,400,000.00. The tangible property of the Champion, the Plano, McCormick and Deering Companies.

Q. Now for the plant and property of the Milwaukee Company was that paid for in stock? A. It was.

Q. How much stock of the International of New Jersey was used to secure that plant? A. Three millions one hundred and forty-eight thousand, one hundred and ninety-six dollars and sixty-six cents. That shows on the second page of this.

Q. And to whom was that stock given? A. I presume to Mr. Perkins or Morgan and Company, it was given by them.

Q. Was it given at the same time you got your stock? A. Yes, sir; I think so.

Hon. Theodore Brace, Commissioner:

Q. Now has Mr. McCormick answered what the McCormick Company got? A. I gave it collectively before. I will have to separate them out if you say it is material and want it.

Hon. W. M. Williams, counsel for the respondent:

We have the list and the gentleman may look it over and see if they want to go into that. However, we would prefer not to go into detail on that matter.

General Herbert S. Hadley, counsel for the informant:

If there is any financial embarrassment I will not insist upon going into the individual holdings of the McCormick interests.

Q. You are familiar with the allegations of the Swift matter? A. I am.

Q. He says that for the McCormick Company's interest there was fifty millions of stock issued? A. I don't think Mr. Swift had any knowledge of the matter, I don't think anything he might say on the subject would be at all worthy of credence.

Q. Now when the International started out in business in the month of September, 1902, it had these five plants we have been talking about? A. Yes, sir.

Q. Now the next company to be transferred to or to become part of the International of New Jersey, was the D. M. Osborne of New Jersey? A. Yes, sir; it was.

Q. You have heretofore mentioned that is the next to the largest company of these which became a part of the International of New Jersey in 1902? A. I think I said it was larger than some.

Q. After the organization in New Jersey, the D. M. Osborne was the largest doing business in the United States? A. Yes, sir.

Q. Was that plant and the assets of that company paid for in stock of the International of New Jersey? A. It was not.

Q. It was purchased, was it? A. Yes, sir; it was.

Q. How was it purchased? A. By giving promissory notes due after five years.

Q. To whom? A. To the owners of the business or group of people.

Q. Did they become stockholders of the International of New Jersey? A. They did not.

Q. These notes were given by the International of New Jersey were they? A. They were, I think; I do not remember exactly, there was a payment, a part cash price of a million dollars on account made by the New Jersey Company, and the balance was in notes due in five years. Now I could not say from memory, but the record would show just who made that obligation.

Q. It was either the International of New Jersey or the stockholders? A. Yes, sir.

Q. Had the stockholders of the International of New Jersey bought the Osborne Company? A. They had not, they bought the stock.

Q. They bought the stock? A. In the first place.

Q. They bought it in the interest of the International of New Jersey? A. They did.

Q. Who were these men that bought the stock? A. They were some stockholders of the New Jersey Company.

Q. Who were they, I was asking you? A. I presume they were the nine, Mr. Glessner and the same list you have, Mr. Jones, the two Deerings, the three Deerings; three McCormicks, the nine, and Mr. Perkins, I don't know whether Mr. Perkins was in the list or not.

Q. The money you nine stockholders used to buy up the stock of the Osborne Company was money that belonged to the International of New Jersey? A. So far as the cash payment was concerned.

Q. When did you buy this stock? A. In January, 1903.

Q. Where did you buy it? A. In New York.

Q. Of whom? A. Of a syndicate represented by the chief owners. Mr. Thos. Osborne, Mr. Metcalf and Mr. Starrow.

Q. The facts in the case practically were, Mr. McCormick, were they not, that the Mutual Life Insurance Company tried to form a rival organization to the International of New Jersey with the Osborne Company as one of the main constituents? A. We knew nothing of such a transaction, we had nothing to do with it. If you wish to know the reason why the Osborne Company was taken in I will be glad to tell you.

Q. Did you at that time, know the Mutual Life Insurance Company was forming an organization, a rival to the International of New Jersey? A. No, sir.

Q. Did you afterwards learn it? A. Except by the article to which you are referring.

Q. Mr. Casson's article? A. Yes, sir.

Q. So the first time you had any information on the subject that the Mutual Life had tried to form a second harvesting combination in 1903, with the Osborne Harvesting Company was when you read it in this publication? A. Yes, sir.

Q. But in the year 1903, your company did purchase the controlling interest in the Osborne Company? A. Yes, sir.

Q. What per cent. did you secure? A. All of it.

Q. Did you continue the Osborne Company, it ran its own plant? A. It did.

Q. For how long? A. Until the end of 1904.

Q. Then in January, 1905, its business was taken over by the International of New Jersey? A. I think it was at the end of 1904, I might be mistaken in that myself.

Q. December, 1904? A. That is the time, December, 1904.

Q. So then for two years practically the Osborne Company continued in existence with its officers separate from the International of New Jersey, although its stock was owned by the International of New Jersey? A. Two seasons.

Q. During that time the Osborne Company was doing business in Missouri? A. Yes, sir.

Q. Who was looking after the management of the Osborne business? A. The managers in Auburn, New York, the same managers who continued in the operation of it.

Q. After you nine stockholders had bought it? A. The same people as before.

Q. Did you let them know that the International of New Jersey was the owner of the stock? A. Let who know?

Q. The officers? A. It was from the officers we bought the stock, the reason we did not make a statement to anybody except the officers, they requested us not to let it be known because we did not buy their receivables, their outstanding accounts. They requested us to give them time to collect in their receivables; we fixed no special time but we had conferences with them every now and then from time



to time, and it was decided the announcement would be postponed, until it was settled upon for December, 1904.

Q. What I am getting at is during these two years, although the old officers continued namely as the officers of the Osborne Company who actually conducted and managed the business of the Osborne Company? A. They managed and controlled it, but under advice from the International Harvester Company. The same officers continued in business, and the same management.

Q. Now during that time the Osborne Company had a separate plant in Missouri, I mean separate warehouses? A. Yes, sir.

Q. Was any advertising done by the Osborne Company during these two years? A. I presume there was.

Q. Who had charge of that? A. The Auburn managers.

Q. Under the direction of the International? A. Yes, sir.

Q. So during these two years it did not become known to the public so far as you know that the Osborne Company was owned by the International? A. Did not for the reason I stated.

Q. Were you aware of the fact that the Osborne Company was advertised as an independent company in Missouri? A. I do not know, I do not know what the advertising was.

Q. Was it generally known to the salesmen of the Osborne Company? A. No, sir; I do not think anyone except the officers knew it. They never told us who they informed.

Q. Was there competition during that time between the Osborne and the International? A. I think there was.

Q. Pretty fierce? A. There was real competition.

Q. Was it as fierce as it had been before the International had become the owners of the Osborne Company? A. Very little, very little difference.

Q. It did not serve to mollify the managers trying to conduct the business on strict lines, that was the line of competition? A. Yes, sir; exactly.

Q. Did it ever occur to you and the other officers of the International of New Jersey you were competing with yourselves? A. You see we did not manage the details at all, we left that to the Osborne management entirely.

Q. Well then, even after you took over the property of the Osborne Company in December, 1904, did you still continue to operate it as a separate plant? A. We still continue the separate agents; yes, sir.

Q. The Osborne agents are still continued although there was a public announcement made of the change. Perhaps I am not correct on this. I ask if you are not perhaps mistaken, if it was not until 1906, that it was announced that the International had taken over the Osborne Company, November, 1906? A. I think it was 1904, that is what I got, I think that is the date I have given you that it was taken over. It was published in the year 1904.

Q. You are talking about the time it was published? A. Yes, sir; that was the end of 1904.

Q. Does the D. M. Osborne Company as a corporation still continue to do business in some states? A. No, sir.

Q. Do you have a separate agency in Indiana? A. Yes, sir; but the D. M. Osborne does not exist to sell harvesting machines, I don't know whether the shell of the D. M. Osborne Company still exists. I don't know about that. As far as doing harvesting business, they certainly do not. It is a nonentity.

Q. Do you know when the D. M. Osborne quit business in Missouri? A. I don't know.

Q. You don't know whether it continued after December, 1904? A. I should think not.

Q. Are what is known as Osborne instruments sold in Missouri now? A. Oh, yes, sir. You must understand all the trade, names and special virtues of different machines were kept up, and the individual characteristics were kept up and enlarged.

Q. Now the deed from the Osborne Company to the International Company was dated September 16, 1905. Do you know how it happened that actual transfer was not made until some eight or nine months after? A. I couldn't tell that. The law department of course had charge of completing all these dates, whether they were slow in getting around to it I cannot tell.

Q. Then it was signed September 15, 1905, by Thomas Osborne, President and Joseph Osborne, Secretary, and you continued them in their offices until January, 1905? A. They did not do any business, if they held their offices it was for the purpose of legal technicalities.

Q. Your idea is generally that the Osborne Company quit doing business after it had been under the International two years? A. Two seasons, until September, 1904.

Q. Now what was the next company that came into the International of New Jersey?

Hon. W. M. Williams, counsel for the respondent: You mean second to it?

Q. No matter to me in that regard. The next was the Minnie Harvester Company? A. September, 1905.

Q. That never did business in Missouri, did it? A. Not that I know.

Q. Is that the same as the Minneapolis Harvester Company? A. No, sir; its successor.

Q. It is called the Minnie for short? A. I think they had a change, for some legal reasons they called themselves the Minnie, it is the same plant with a new company.

Q. When did the International secure that? A. November, 1905, no, September I should say.

Q. How did they secure it? A. It secured it by purchasing the assets of the Grass Twine Company.

Q. Had the Grass Twine Company purchased the assets of the Minnie Company? A. The Grass Twine Company had purchased the assets from the Walter A. Wood Company of Minneapolis and had manufactured the Minneapolis Company machines there.

Q. And the Minnesota Company had gone out of business years

before that? A. Yes, sir; and manufactured them at St. Paul. When the New Jersey Company bought the plant from the Grass Twine Company they were manufacturing a few of these Minnie harvesters in connection with the twine they manufactured. Twine made out of slough grass. It was a new experiment and it was a failure.

Q. That is, the experiment of the twine was a failure? A. Yes, sir.

Q. Now did not the International of New Jersey directly or indirectly become the owner of the stock of the Minnie Company in the year 1903? A. I think they became the owner one season before that or two seasons maybe, but there was the same difficulty there as in the case of the Osborne. The holders of the business of the Grass Twine made a request that no mention of the transaction be made until they could collect their outstanding accounts.

Q. Now this grass twine company was a continuation of the Minnie Harvester Company which was in existence? A. Only for the operation of their grass twine.

Q. Now one or two seasons before 1905, the International Company became the owner of the controlling interest of the Minnie Company? A. Yes, sir; I think two seasons. I think it was the winter before. I think it was one season. My information was that it was 1903. I would not dispute that, I don't remember, it was at least one season.

Q. Before September, 1905, that the International of New Jersey became the owner of the patents and the rights to manufacture the Minnie Harvester? A. Yes, sir; of course the reason we got that, I presume you do not care to know. The reason why, was because this St. Paul plant was right in the section of country of a very fine flax growing section, and the New Jersey Company was producing a very fine exhibition or experiment of the flax twine, and that being a territory where the flax was grown, they could manufacture flax twine and sell it to the farmers. We cared nothing for the grass twine nor the experiments of the grass twine exhibition.

A. At the time you took that over, did the International of New Jersey organize the International Flax Twine Company? A. No, sir. When we bought the plant out they ceased their experiments, their efforts were to make a binder that would use grass twine. When they failed in that we acquired their plant.

Q. Who is C. S. Funk? A. He is the general manager of the New Jersey Company.

Q. In what purports to be an interview with Mr. Funk, he stated in September, 1905, that during the last two years, the International Harvester Company had acquired controlling interest in the Minnie Harvester Company? A. It would be two seasons.

Q. And during that time, was the business of the Minnie Harvesting Company being conducted in Missouri? A. I don't think there was but very little business, if any, no business at all, it was practically a defunct concern, they were selling once malleable castings, I think it was at a complete stand still.

Q. Do you know whether that company was advertised during

these two seasons as an independent company? A. I don't know, I do not think it was.

Q. What was the next company in point of time that was secured or acquired by the International? A. The next was the Keystone, September, 1905, Sterling, Illinois.

Q. Was that secured control of in the same way as the Osborne Company? A. No, sir; it is different. There was no stock purchased, nothing but the tangible assets of the plant at Sterling, Illinois.

Q. Have you investigated in reference to that, Mr. McCormick? A. No, sir, I haven't in detail.

Q. It is alleged in the Swift bill that that company was secured by the International by purchasing 3,900 of the four thousand shares for \$460,000.00? A. The International never bought a share of stock of the Keystone, either directly or indirectly. If that is true, it is done by individuals.

Q. It was done by individuals in the case of the Osborne Company? A. It may be some of the individual stockholders bought some of the shares of the Keystone.

Q. With the Company's money? A. No, sir; their own. But the Keystone property was bought by the New Jersey Company.

Q. And the assets were transferred to the International Company in January, 1905? A. Yes, sir.

Q. You knew as a matter of fact that the officers of the New Jersey corporation had purchased thirty-nine hundred of the four thousand shares of the Keystone Company? A. That might be.

Q. They might have done that with the money belonging to the International Company? A. No, sir; they didn't do that, I know.

Q. What information have you of the various stockholders purchasing the controlling interest of the Keystone Company? A. I think they did, I do not think it was a majority, whether they did or not. The International only purchased the tangible assets.

Q. Did they purchase the assets of the company in which the stockholders had an interest? A. Yes, sir.

Q. The controlling stockholders of the Keystone were stockholders in the New Jersey corporation? A. Yes, sir; that statement is quite correct, and had been so for at least one season.

Q. The same condition applied in this as the former companies, that they wanted to have some time to collect in their accounts and transfer their business. A. I might say that the reason for buying the Keystone, there was a special reason for it. They had a first class line of hay tools and the International was short on that line and they wanted the haytools of the Keystone to increase their hay line tools, which they have done since. Besides that there were some very good patents in mowers and binders that the Keystone had.

Q. I presume that the International of New Jersey purchased these various companies because of the fact that they wanted it for some good reason and was desirous of getting it? A. Yes, sir; but each had a special reason.

Q. But during the time the stockholders of the New Jersey company was to control the interest in the Keystone Company, was there

any working agreement between the Keystone and it as to price? A. Not that I know.

Q. During that time that the International stockholders controlled the Keystone Company was the Keystone Company advertising as an independent company? A. I couldn't say from memory. The officers remained and managed the business entirely independent.

Q. Did they know the controlling interest in their company belonged to the New Jersey? A. Yes, sir.

Q. When the International Harvester Company finally took over the interest of the Keystone Company, the managers of the Keystone took stock in the International for their interest? A. No, sir, the International gave notes for the amount they paid for it. I don't know what the amount was.

Q. What was the next company acquired? A. The Weber Wagon Company.

Q. The Keystone did business in Missouri? A. Yes, sir.

Q. And had elients in Kansas City and St. Louis? A. Yes, sir.

Q. The Weber Wagon Company, that was engaged in business in Missouri? A. I don't know. The Weber Wagon Company was acquired September, 1905.

Q. Prior to that, had the International or any of the stockholders of the New Jersey corporation acquired the stock of the Weber Wagon Company? A. No, sir.

Q. You had a selling arrangement with the Weber Wagon Company? A. Yes, sir; that was before any purchase was made, that was probably before, two years. We bought their entire output, after having done that we became so well satisfied that their plant and their method of doing business, and their wagons and the American Company organization was so anxious to have a wagon to sell by its salesmen to keep them employed during the whole year that the New Jersey Company made terms with the Weber people to buy their entire business.

Q. So when you speak of the American Company you mean the International Harvester Company of America, the respondent in this case? A. Yes, sir.

Q. I am asking you about the Weber Wagon Company, you say there was no stockholder in the International Company that owned any stock in the Weber Wagon Company? A. No, sir; the sale was made by giving notes to the Weber people.

Q. At that time, was Mr. C. S. Funk president of the Weber Company? A. Yes, sir.

Q. And he was also general manager of the McCormick Harvesting Machine Company? A. Yes, sir.

Q. How did it happen he was president and made the transfer? A. He was only for a few days. I was not aware he was president of the Weber Company.

Q. If he was at the date the deed was made from the Weber Wagon Company to the International Harvester Company and the deed so shows, he was then? A. I presume that the stockholders elected him president just prior to the conveyance.

Q. Now what was the next company you took over? A. The next was the Aultman & Miller Buckeye Company, November, 1905.

Q. I will ask you if the International of New Jersey had any interest in the stock of the Aultman Miller Company previous to November, 1905? A. Had not; only some of the stockholders of the Harvester Company as individuals, had loaned credit to Judge Vincent, from whom they bought the plant.

Q. At the time you took over the Aultman Miller Company, it was known as the Aultman & Miller Buckeye Co.? A. Yes, sir; that was formed by Judge Vincent.

Q. In 1903, the Aultman Miller Company had failed? A. Yes, sir.

Q. And Judge Vincent had bought it in at a trustee sale? A. Yes, sir; he did.

Q. And the stockholders of the International of New Jersey had loaned Judge Vincent money to buy it in? A. They had loaned him credit.

Q. They had endorsed for him at the bank? A. Yes, sir.

Q. They furnished him the means to buy in the property? A. Yes, sir.

Q. So then Judge Vincent organized the Aultman Miller Buckeye as an Ohio corporation? A. Yes, sir.

Q. In that corporation the stockholders of the International of New Jersey were the controlling interest, were they not? A. I think they were. They were not stockholders, because they loaned him credit, they had no interest.

Q. But the stock of the new company was put up as collateral for these notes? A. It may have been, I do not know.

Q. Any way the money that went into the reorganization of the Buckeye Company was from stockholders of the International? A. Yes, sir; obtained from them.

Q. It was in January, 1903? A. Sometime in 1903.

Q. The Aultman, Miller Buckeye Company was continued through two seasons as their own business? A. Yes, sir.

Q. Was that also necessary to collect the bills receivable? A. I don't recollect about the bills receivable. I think that was a plan made by Judge Vincent.

Q. Any way, when it was taken over by the International, November, 1905, these stockholders who had advanced credit they got back, they were reimbursed, the company bought it for cash at the time. They were reimbursed? A. Yes, sir.

Q. During these two seasons the Aultman Miller Buckeye Company was conducted as an independent company? A. Yes, sir; for the sake of furnishing repairs to the Buckeye machines furnished throughout the country, very few Buckeye machines were made.

Q. Who were these stockholders that advanced money or credit to Judge Vincent? A. I think practically the same list, I read before, Mr. Glessner, Mr. Jones and one or two Deerings, and one or two McCormicks.

Q. They were practically the same ones that had advanced the



credit in all this stock purchased? A. With some variations in amounts.

Q. But were from the same list? A. Yes, sir; within the Board of Directors.

Q. Of the American Company? A. No, sir; of the New Jersey Company.

Q. Were you going to say of the parent company? A. Of the New Jersey Company.

Q. So the Aultman Miller Buckeye Company advertised in Missouri as a competitor during these two seasons? A. I do not think so.

Q. Did you ever see their advertisement? A. No, sir.

Q. Who was the managing officer of the Buckeye Miller Company? A. Judge Vincent.

Q. He was a lawyer, who was the practical man in charge of it? A. I don't know, somebody he appointed down there.

Q. Judge Vincent was never a harvester machine man, was he? A. Well he had more or less connection with a harvester company. He had that experience.

Q. Which company had he been attorney for? A. I think he had been attorney for, I couldn't say, I know for some company, I don't think he had been for the McCormicks, certainly not for them. I think he had been attorney for the Plano Company, well one or two, I couldn't say which ones.

Q. Well, was there not some practical man in the employment, a man furnished by the International to look after the affairs of the Aultman Company to help Judge Vincent? A. No, sir; I think the man that ran the business under his direction was a man that was with the International Company, I forget his name, you might call his name to me.

Q. I see a man by the name of Ira N. Miller? A. He was a son of the old man, he remained there.

Q. He continued there? A. Yes, sir.

Q. Any way the International furnished a man who worked under the direction of Judge Vincent? A. No, sir; they didn't furnish any, Judge Vincent got a man who resigned from the International.

Q. But had left them just before, and forthwith he became the managing officer of the Buckeye? A. Not as an officer but as an employee.

Q. What was the next company that was purchased by the International of New Jersey? A. The next was the Kemp Company, November, 1906. That was a company that had two small works for the manufacture of manure spreaders. That Kemp had two small works, one at Newark Valley, New York, and the other at Waterloo, Iowa. They manufactured manure spreaders and the selling organization of the American Company was very anxious to add to their line the manure spreader, so the New Jersey Company made a trade with the Kemp Company and acquired their tangible property, but had nothing to do with the stock.

Q. What did they do, pay cash? A. They paid a small cash and made notes.

Q. There had not been any previous arrangement to buy the stock? A. No, sir; we had been buying their machines. We had previous relations with them.

Q. You had been utilizing their output? A. Yes, sir; buying and selling machines for them.

Q. That was not a very large concern? A. No, sir; very small.

Q. Had you had an option on the plant for some years? A. I think three or four months.

Q. What was the next company you absorbed? A. We are getting down to the last. I think you have come to the end.

Q. Did you not take over the Bettendorf Axle Company? A. No, sir; we bought the wagons, we never bought anything in the way of plants or machinery. We bought the patents to make the wagons with, but never bought any plant or company.

Q. You had prior to 1905, or in the year 1905, contracted to purchase the output of the Bettendorf Axle Company? A. Yes, sir.

Q. You at the time secured an option to buy the patents? A. Yes, sir.

Q. And the plants? A. No, sir; we did not accept the option. They are still building the wagon.

Q. Is the Bettendorf Wagon Works in existence? A. Yes, sir; we did not acquire it.

Q. At the time of the organization of the International Harvester Company of America, the property of the five companies were secured, is that correct? A. The America Company had nothing to do with it, you said America.

Q. I mean New Jersey, five properties were secured by it? A. Yes, sir; they were.

Q. And since that time up to the present, the stock or property of the eight other companies has been secured? A. The properties, not the stock. The stock of the Osborne Company is the only one. Six, how do you count eight, Mr. Hadley?

Q. Did you take over the Columbian Cordage Company? A. That was a part of the purchase of the Osborne interest, that was simply a subordinate interest of the Osborne.

Q. There was a deed from the Columbian Cordage Company made September 16, 1905? A. That was simply the property of the Osborne stock.

Q. You counted that in as property of the Osborne Company. Then the Mexican Sisal Ranch Company? A. That was a vast tract of arid land in New Mexico, I don't remember anything about that, that was nothing but a vast tract of arid land that was supposed to grow sisal, it was supposed to be the property of the McCormick Company.

Q. What ever interest in the McCormick Harvester Company owned, that Mexican Sisal Company was transferred to the New Jersey corporation? A. Yes, sir; it was owned by the McCormick Harvester Company.

Q. Did that transfer also include the transfer of other patents of these various companies? A. Yes, sir; it did.

Q. I understood in Mr. Casson's article there were thirteen companies in all, that had been included in the International Harvester Company of New Jersey. Did you give him any list different from what you have given here? A. I do not know, I do not know how he got thirteen. I can count them up. I think he counted some railway company.

Q. Some railway company? That is a railroad that belonged to the McCormick Harvesting Company? A. Yes, sir; that is two and half miles long, and but just as wide as any.

Q. And probably more productive in the way of litigation than any other railroad in the country for its length? A. I think not.

Q. Did you read the interview in this article of Mr. Casson's that was supposed to have been given by you. It is only three sentences long and I will read it to you. "'We are big enough now,' said Cyrus H. McCormick. 'It is not safe for one company to have a monopoly. What we want to do is to regulate competition, not to destroy it.'" What do you say about that? A. I endorse this sentiment, whether I said it or not.

Q. If you did not use that exact language of Mr. Casson's, you undertook to convey that thought to him? A. I certainly told him several times we are not desirous of controlling the entire trade. My idea was to make things stable, not to have them up or down.

Q. To regulate competition and not destroy it? A. No, sir; I would not say that.

Q. Did you say that to Mr. Casson? A. I should think I did not.

Q. I understood you to say you endorsed the sentiment? A. Endorse his sentiment of being big enough and not have a monopoly.

Q. Do you endorse the balance of the article, I understood you did? A. Read the sentence.

Q. "It is not safe for one company to have a monopoly." A. I agree to that.

Q. "What we want to do is to regulate competition, not to destroy it." A. I would not want to say that. That does not represent any concrete statement. I had a dozen conversations with him.

Q. Well, what language would you state it in in your effort to adjust competition or secure stability? A. I would say that I think we should have a tendency to make stable the prices rather than have any fluctuation competition.

Q. Then Mr. Casson continues "Besides the big Osborne Company, which is now the third largest in the combine, the harvester trust has about five smaller concerns, and built two new plants—one in Canada and one in Sweden. It is like the original United States—a union of thirteen industrial colonies." Now this list you gave Mr. Casson is not different than what you gave here? A. Yes, sir; of course I gave the two companies you reminded me of, the one in Sweden and Canada.

Q. That made the thirteen? A. Yes, sir.

Q. Well has the International of New Jersey, directly or in-

directly, or the stockholders of that company any connection of interest in the Wisconsin steel company? A. It has, the Wisconsin Steel Company owns the ore mines and coal properties and steel mills of the International of New Jersey.

Q. And the International of New Jersey owns the controlling stock of the Wisconsin Steel Company? A. All the stock.

Q. The same thing is true of the Wisconsin Lumber Company, the International Harvester Company owns the land? A. Yes, sir.

Q. And the Deering Steel Trust Company of South Chicago? A. That is the same thing as the Wisconsin Steel Company.

Q. And the South Chicago Furnace Company, is that a separate company? A. There is no such company now because the Wisconsin Steel Company bought the plant and everything belonging to the South Chicago Furnace Company, that was the former name under which the steel plant operated at Chicago.

Q. How did the International take over the Illinois Northern Railway Company? A. That was turned over by the McCormick Harvesting Machine Company. It was owned by the McCormick Harvesting Machine Company.

Q. What are the principal competitors in Missouri of the present time in the harvesting business of the International Harvester Company, is it not the Acme Company and the Johnston Company? A. Yes, sir; they are.

Q. How long did Mr. Middlecoff remain with your company, the consolidation of the New Jersey corporation? A. He was never with us at any time, he had left the Deering Company firm about two years before he took the option on the Milwaukee plant, and he acted for Mr. Perkins as an individual, and he never was with the New Jersey before or since.

Q. Was he ever with the respondent company? A. No, sir.

Q. What did he do after that? A. He engaged in a private business, he never came in contact with us.

Q. What relation is he to that Acme Company? A. I do not know of any.

Q. Has the International of New Jersey any interest in the Acme Company? A. None whatever.

Q. No selling arrangements? A. No, sir.

Q. Or in the Johnston Company? A. None at all.

Q. How about the Plymouth Cordage Company? A. None at all.

Q. The Johnston and the Acme are the present competitors? A. In Missouri.

Q. Are they not practically the only ones engaged in the harvesting business in Missouri? A. I think so.

Q. At the time your company, the International of New Jersey was organized, there were some nine or ten companies engaged in the sale of harvesters and now there are only three? A. I do not think you can count nine or ten.

Q. You have named that many. Five companies and the Deering makes six? A. The five included the Deering.

Q. The Osborne was doing business? A. There is six.

Q. The Aultman, Miller was doing business? A. I would hardly say they were doing any business, they had a little warehouse in Kansas City.

Q. They were doing some business? A. That is seven.

Q. And the other two would be nine? A. Yes, sir.

Q. What percentage of the harvester business does the International of America do in Missouri? A. I would like to distinguish between the harvester business proper and simply that which is not harvester, such as reapers and mowers and rakes, and the general business which the New Jersey Company has branched out since.

Q. We will take them up afterwards. I asked you about the harvesters? A. I should say the New Jersey now does a smaller proportion of business in Missouri than in 1902.

Q. They had no business then? A. I mean that the New Jersey does a smaller portion of business today in Missouri than companies which were formerly individuals which are now the assets of the one company, and which are now owned by the company.

Q. The Acme and Johnston were not here then. You did all of it in 1902? A. The Johnston was here then.

Q. It does not appear so on the records of the Secretary of State's office. A. It does not.

Q. That is my recollection. The Acme was not here, been organized since? A. Then my estimate would be incorrect?

Q. It would be your judgment that the International does 90 or 95 per cent. of the reaper business in Missouri at the present? A. I should have supposed it was only 80 per cent. If you have figures that shows 90 I would not say it differently.

Q. I have figures. A. I would say it is less than 90 per cent. I would say between 80 and 90 per cent.

Q. Now you mentioned something a while ago I think it well to make clear. Now the way in which the plant of the International of New Jersey, after you took over its various properties, did you continue the manufacturing establishment of the McCormick Company and the Deering and the Plano and the Glessner, Warder Bushnell and Glessner and the Osborne Company after they bought them? A. Everything went on about these plants without interruption.

Q. Are they in existence now? A. Yes, sir; every one that you named.

Q. The Plano, the Milwaukee, The Deering, the McCormick and the Osborne? A. Yes, sir; the ones you name.

Q. And every one is in existence today? A. In active operation.

Q. How about the Keystone plant? A. The Keystone is the same. I can tell you about all of them. The Osborne is more actively engaged than ever, it has a larger production than under the Osborne management.

Q. Does it manufacture the same things? A. The Osborne does except it manufactures a great many other things.

Q. You have increased the output? A. Yes, sir. The Buckeye

is manufacturing a new line of goods developed by the New Jersey Company, farmers' automobiles and tractions for pulling heavy loads.

Q. That has quit manufacturing the reapers and binders and gone into specialties? A. Yes, sir; after the New Jersey took over this Buckeye plant the Buckeye was an old-fashioned mower and the establishment had dwindled out and the plant was standing idle and we were going to put in some new lines and this fitted in very nicely, so that they will do more business now than before. Then there was a small twine mill that the Buckeye plant had that has been actively going ever since, then the Minnie Company at St. Paul is actively filled with twine.

Q. It does not manufacture any reapers? A. No, sir. The Keystone is full of small goods and the location of West Chicago makes a very good manufacturing location for supplying Iowa. They manufacture the same here as before.

Q. They do not manufacture any reapers? A. No, sir; some of the patents and mechanical devices in the Keystone are very good and are taken into other machinery and it was not felt necessary to have it continued but the plant is filled with other things, then the Weber has been very much increased. The output is, I should like to say 100 per cent. more but anyway 50 to 75 per cent. more.

Q. That is with wagons? A. Yes, sir; they never made as many wagons before because the American Company are selling more wagons than the Weber ever could sell. Then the Kemp works at Newark and at Waterloo have increased their output considerably from what it had been. In fact the demand for the manure spreaders, we were obliged to take part of the Plano work to fill it full of manure spreaders and wagon business spread over into the Plano works.

Q. Where are the Plano harvesters built now? A. At the Deering works.

Q. Where are the Champion built? A. Springfield, Ohio.

Q. They did not build very many? A. Yes, sir; the principal works has developed larger than under the Bushnell people.

Q. It is used to manufacture hay presses mostly? A. Yes, sir. The binders and reapers, they are increased from what they were before but the plant is not filled with them.

Q. And the Milwaukee machines are built at the McCormick plant? A. The Milwaukee—Milwaukee is a very favorable point to make gasoline engines.

Q. Did the International of New Jersey build any plant—what is the head plant? A. The McCormick is larger than the Deering, the Deering is as much the head plant as the McCormick.

Q. Then all of these machines manufactured by these different companies are still manufactured under the original name? A. Yes, sir.

Q. You still have the McCormick reaper? A. Yes, sir.

Q. And have the Deering binder? A. Yes, sir; just the same.

Q. You still have the Champion reaper? A. Yes, sir.

Q. I see that all the original names are maintained, they are trade names? A. I say that all the original names are maintained,



they are trade names, that is a part of the assets that went to the new company.

Q. Have you got any new reapers or binders or harvesters since the creation of the International of New Jersey? A. Yes, sir; we have, that we sell in foreign countries, and we have been improving and developing them, we have not added any new lines.

Q. You continue the old reapers and binders that were manufactured and sold by these several companies? A. Yes, sir.

Q. In your advertisement of your business you get out catalogs as if they are advertising each brand separately? A. Yes, sir; each one is separate.

Q. You get out catalogs marked "The Plano?" A. Yes, sir.

Q. That gives nothing but the "Plano?" A. Yes, sir.

Q. Then you get out a catalog marked "McCormick," that just advertises the McCormick machines? A. Yes, sir; that is because each line has its own agents and every line of agents desires their own printed matter.

Q. You get out a catalog for the Osborne machine? A. Yes, sir.

Q. And for the Champion machine? A. Yes, sir.

Q. And one for the Deering? A. Yes, sir. You will see on the title page of each one the name of the International Harvesting Machine Company of America.

Q. How is that? A. You will see that. Upon the first page down at the bottom appears the words "International Harvester Machine Company of America, Incorporated, U. S. A."

Q. The International Harvester Company of America does not manufacture any of these machines? A. No, sir.

Q. These catalogs are given to the retail dealers? A. Yes, sir.

Q. To sell the machines? A. Yes, sir; to the farmers.

Q. But the International Harvester Company of America buy these from the International Company of New Jersey? A. No, sir; they print them themselves.

Q. They buy the machines from them? A. Yes, sir.

Q. Who is the purchasing agent for the International of America?

A. They have none.

Q. Who decides what machines they shall buy of the International of New Jersey? A. The directors and their agents and managers in the company's office in Chicago.

Q. Who are the men who decide for the International of America what machines they shall buy from the International of New Jersey?

A. The directors and Mr. Mayer as the head of the sales department for the American Company.

Q. That is he furnishes the directors the amount they can probably sell? A. Yes, sir.

Q. And the International of America take up with the International of New Jersey, the purchasing of these machines? A. Yes, sir; the way it is handled Mr. Mayer on behalf of the America Company sits down with Mr. Kennedy, who represents the New Jersey manufacturing company, and they two make out the program.

Q. What do you mean by the "program?" A. The machines that the America Company would like to have manufactured, and the number of the machines, the method of transacting the business does not all come to the directors.

Q. Who determines the prices that the International of New Jersey shall sell? A. These two men.

Q. Who determines the prices at which the International of America shall pay? A. These two men with the recommendation of the Board of Directors.

Q. Each were employees of the two respective Boards of Directors? A. Yes, sir.

Q. And the Board of Directors of the America Company is the Board of Directors of the International of New Jersey? A. Yes, sir; half of it.

Q. Did the companies make contracts with each other? A. Yes, sir; they did.

Q. Who signs them? A. By the various officers the business is transacted. The business is transacted just as separately as it is possible where two companies have the same stockholders.

Q. And where the one company is owned by the other? A. Where they have the same stockholders.

Q. So you Mr. McCormick, as president of the America Company, made a contract with yourself as president of the New Jersey Company? A. That is it.

Q. Did you have much difficulty to make a contract with yourself? A. I sometimes find some knotty problems.

Q. You sometimes higggle over the price? A. Handling it as I told you, it comes up to me as referee, Mr. Kennedy contends for the manufacturing company and Mr. Mayer for the America Company. There is about as much discussion as between two foreign companies.

Q. But of course in the end, whatever profit is made in the sale of machinery to the America Company by the New Jersey Company or whatever sales made by the America Company, comes back to the same stockholders? A. Yes, sir.

Q. Do you charge a profit? A. Yes, sir.

Q. What do you charge? A. A reasonable profit.

Q. How much, ten per cent? A. More than that when you undertake the expense of selling.

Q. How much do you average? A. I should think it would be necessary to have thirty per cent. For the America Company to pay its selling expenses.

Q. What profit did the New Jersey Company charge over the cost to the America Company? A. That would not be thirty per cent., I meant the America Company would be that.

Q. What would be the profit that the New Jersey Company would charge the America Company? A. Eight to ten per cent.

Q. When it comes to the actual work of marketing these machines in Missouri or such territory as the International of America sells in which I understand is in all parts of the United States? A. Yes sir; all over the United States.

Q. Except Texas? A. No, sir.

Q. Arkansas? A. No, sir; does not sell in Arkansas.

Q. Any other states they do not sell in? A. I do not think we have much trade in Florida, no legal reason though, the only states where we might legally not sell would be Arkansas and Texas.

Q. Do the International of New Jersey manufacture any of the goods sold there? A. Yes, sir.

Q. Has it ever marketed any goods except through the International of America? A. Yes, sir; not the harvesting machinery, they sell a large amount of steel.

Q. You never sold any except through the International of America? A. No, sir; that is all.

Q. Did the International of America ever sell any harvesting machinery except as this manufactured by the International of New Jersey? A. Ye, sir; they have two or three lines.

Q. I mean harvesters? A. Yes, sir; the threshing machines are harvesters. I say they sell things that are not manufactured by them.

Q. Have they ever sold any harvesters or reapers or binders? A. No, sir.

Q. They do sell some machines that are not manufactured by the International of New Jersey? A. Yes, sir; plows and things that are not manufactured by the New Jersey Company.

Q. But all these kind of implements that are manufactured by the International of New Jersey are now sold by the America Company? A. Yes, sir; that is true.

Q. When the International of America goes into the State of Missouri to sell do you have what is called the "block system?" A. Yes, sir.

Q. What do you mean by that? A. That means the General Agent is located at any one point, which is Sedalia for instance, to sell for the territory which is divided up into smaller territories like a patch work quilt, in the center of that would be the man that would have charge of the business in that smaller territory. And that man is the block man and he reports to the General Agent at the central point.

Q. Then the block man in his small territory is like a general agent and he goes and deals directly with the local agents who are dealers and he manages and canvasses in that territory. A. Yes, sir.

Q. Does he report the information he obtains of those in competition with him in that territory? A. He reports anything that is of interest to the company. He has no instructions to report anything special of that kind.

Q. Has he a blank in which he reports the machines sold by other companies? A. Not to my knowledge, but if he has the knowledge it would be well to report it.

Q. The idea is to have a definite territory and have charge of it, have some responsible man for it? A. Yes, sir; that was the system in all of the old companies, it is the same system existing now as existed practically by all of the companies that you have spoken of before the formation of this company.

Q. Now about selling goods, it gets down a little closer to the purchaser, in a town you probably find two or three dealers in farm implements, in most of the towns of Missouri, does your company permit any dealers to handle more than one line of your goods? A. We do.

Q. Would you permit a dealer in Jefferson City to sell the Deering and the McCormick? A. Yes, sir.

Q. Or Osborne? A. Yes, sir; as a rule we give the different lines to the different dealers, but where the dealer wants to have two lines of machines, yes, sir; we do.

Q. Well it is not the rule where there are more than two dealers in a town you will only give one line to each dealer? A. That is the general rule.

Q. You sell now six, the Deering? A. Yes, sir.

Q. The Osborne, the Champion, the McCormick and the Plano? A. Yes, sir; six in all, I think.

Q. Now if there were six dealers in a town your business would be to have each one of them handle a line of your goods? A. We would like to.

Q. And if you can do it you do do it? A. Yes, sir.

Q. If there are only two dealers you would not restrict one dealer to one line? A. But we do not aim to sell in one town all six machines, one machine will have a specially strong trade in one part and one in another. It is not at all necessary that every machine should be represented in every town, where we have two or three agents we have one line first and sometimes we give them two lines, I do not think they have over two. I would not say that we do not have over two.

Q. You do not give two men in any one town the same goods? A. No, sir; we do not want to.

Q. The condition does not exist in Missouri today of any two dealers both selling Deering machines? A. No, sir. The dealers do not like it, it would not be good business, it would not be considered good business to sell the same machine to two men, that would be a very bad thing.

Q. Now the selling of reapers and binders and harvesters, you usually sell on what is called a commission plan? A. Yes, sir.

Q. Where you sell a farmer implements you sell them out right? A. Yes, sir.

Q. The contract as marked in your answer Exhibit "B." was that issued upon the commission goods or upon both? A. Mostly commission goods.

Q. Under the contract marked Exhibit "C," that is now issued upon the commission goods only? A. Yes, sir; that is mainly issued on commission business.

Q. I understood your answer to say you obtained an exclusive contract and that exclusive contract closed about the year 1905? A. I think so.

Q. Who would have charge of that and actual knowledge of it? A. Mr. Mayer or Mr. Funk or Mr. Legge, the assistant general manager.

Q. You have not that knowledge? A. No sir; I have not that detail in my hand.

Q. Do you know as a fact that same claim was made in the answer you filed in the Kansas case? A. I don't know.

Q. You do know that the testimony developed that you had issued exclusive contracts for 1905 and after 1905? In that State? A. Yes, sir; I do remember some thing of that kind.

Q. Have you found or investigated that there was something of that kind issued in Missouri? A. No, sir; I do not believe there is any such thing; I could not say of my own knowledge there is.

Q. Now, this second contract— A. My reason for saying it I think these cases in Kansas were mistakes, that were not known to any of the central management, but I do not think there was any such a case in Missouri.

Q. Now, this is a commission agency contract you issued, is it not? Selden P. Spencer, counsel for the Respondent:

If that is our exhibit "C," it will save time.

Q. Now this marked exhibit "C" is the commission agency contract that you issued now? A. That is in our answer.

Q. Yes, sir

Selden P. Spencer counsel for the Respondent:

That is our answer, and that is exhibit "C" attached to the same. That is a part of the record in the case.

Hon. Herbert S. Hadley, Attorney-General, and counsel for the Informant:

That is exhibit "C" attached to the answer.

Q. That is a copy of all the contracts you issue? A. Yes, sir.

Q. Now, do you remember this clause in this contract "13," "It is mutually agreed, that said Company shall at all times have entire control over all machines, orders, contracts, accounts, notes, moneys or other property accruing and growing out of the sale of said machines, repairs or other property, and may at any time, when it considers its interests are neglected or jeopardized, without notice, annul this contract and take possession of all orders, notes, accounts, moneys and machines in the possession or under the control of said agent by virtue thereof; and said agent hereby waives all right of action for damages because of such cancellation of contract." You are familiar with that clause? A. I knew it existed; I have not read it for a long time; I know it exists.

Q. So, in selling machines to agents, you always gave this clause in by which, whenever you considered your interests are jeopardized, you can terminate the contract and take away the property you gave them to sell? A. Yes, sir; I think the intention of that is in case trouble comes or they fail or something might happen unforeseen.

Q. At any event, you do reserve your right to say whether your interest is jeopardized? A. Yes, sir; whatever the value of the clause is, it is admitted to be there.

Q. Do you know whether that clause "13" was ever exercised when the agent took on any other line of goods in this State? A. I cannot say about that as well as the operating man.

Hon. Herbert S. Hadley, Attorney-General for the State of Missouri, and counsel on behalf of the Informant at this place and time, announced to the Hon. Theodore Brace, Commissioner in the above-entitled cause, that it would be impossible to complete the examination of the witness at this time, and thereupon a recess was ordered to be taken by the Commissioner until nine o'clock Friday, May 8, 1908.

FRIDAY MORNING, NINE O'CLOCK, MAY 8, 1908.

Examination of Cyrus H. McCormick, Esq., resumed by Herbert S. Hadley, Counsel for and on behalf of the Informant:

Q. Mr. McCormick, there are a few questions I wanted to ask you that I omitted yesterday. Can you fix with any more definiteness than you have fixed the first visit to New York with the purpose of conferring with Mr. Perkins? A. As far as I remember, the 15th of June.

Q. That was the first time that the proposition of the formation of the new company had been discussed between you and anybody else, outside of your brothers? A. There was no discussion with Mr. Perkins of the formation of a new company at that time that was the time I went to see him with regard to the reorganization of the McCormick Company.

Q. That related to the expanding of the McCormick Company in order that the Harvesting Company might be relieved of some of the evils that had been incident to it? A. Yes, sir.

Q. One of these evils was the unbusinesslike methods resulting from the competition with your competitors? A. Yes, sir.

Q. Without getting into a controversy of what your purpose was on the visit to Mr. Perkins, was that the first time you had discussed the enlarging of your Harvester business with anybody? A. With anybody except my own people.

Q. You had decided upon this trip after a consultation with your stockholders in your company? A. Yes, sir.

Q. You agreed among yourselves that some change should be made? A. Yes, sir.

Q. You think that was about the 15th of June? A. Yes, sir; I think so; I think it was immediately after the Princeton Commencement, which I attended.

Q. What year? A. 1902.

Q. Who accompanied you on that trip? A. I think my brother was there; I could not say.

Q. Harold? A. Yes, sir.

Q. Was that all that conferred with Mr. Perkins at this time? A. Unless it was Mr. Bentley, our counsel; I could not say about him.

Q. Was it in that conversation you gave Mr. Perkins as complete and detailed description as you were able to give him? A. It was.

Q. Of the harvesting business? A. Yes, sir; it was.

Q. Did he at that time suggest to you any plan? A. He did not.

Q. When did he? A. Well, I don't know how soon after that; but I suppose it was perhaps a week or two.

Q. Did he submit that plan in writing? A. No, sir; he did not.



Q. Did you go back to New York? A. Yes, sir.

Q. He told you he was not ready to talk to you? A. No, sir; the conversation was a general one.

Q. And his suggestion grew out of the information given by you? A. It was all an indefinite proposition.

Q. How did you happen to go back to New York, did he wire you? A. No, sir; he said after the first talk, he said he would see me again; he said he wanted time to think matters over.

Q. You came back in a week? A. Week or ten days, I think.

Q. He suggested a plan did he? A. No, sir; the second talk was a very general one; I do not think anything definite was suggested by him until the first of July, as I remember it. The first talk we had that we were aware of anything, he began to outline an idea of selling, that was just before the Fourth of July, and in that time I had been there once to New York.

Q. Once between the 15th of June and the 4th of July? A. Yes, sir.

Q. Then he outlined his plans to you, selling your plant to a new enterprise? A. Yes, sir; he did.

Q. Was there much change in the plan of the former organization and as finally agreed upon, that and as outlined to you by Mr. Perkins? A. His first outline was a very general one, not much in detail and as I remember it, the development of the subject came in subsequent interviews, in July.

Q. What do you mean by subsequent developments? A. About the talk on the terms we should sell. He never outlined to us in detail at any time.

Q. When did you first become acquainted with the plan of organization or reorganization? A. I suppose toward the end of July; it was one of those subjects that developed by frequent conferences.

Q. In July you were in New York how many times, do you suppose? A. I suppose twice; I was there from the 2nd or 3rd of July, perhaps a few days, and then back again about the 15th and then back again the 28th.

Q. Who usually accompanied you to New York for these visits? A. My brother Harold and Mr. Bentley, our counsel.

Q. They were usually present with these conferences with Mr. Perkins? A. No, sir; sometimes I was alone and sometimes they were alone.

Q. Did they make any trips to New York when you did not go yourself? A. I think not.

Q. You were present at all of the trips? A. I think I was.

Q. About how many days prior to the 28th would you say that it was Mr. Perkins finally unfolded or outlined the plan? A. I could not say; not very long.

Q. About a week? A. I should think so.

Q. Now, was it in the first conversation you had with Mr. Perkins in June that you told him about the situation of the Milwaukee Company? A. Yes, sir.

Q. Do you know how long after the 15th of June it was that the



option upon the Milwaukee Company was secured? A. I don't know; I think it was not long after.

By Herbert S. Hadley, counsel for the Informant:

I suppose that option is available?

Selden P. Spencer, counsel for the Respondent:

We know nothing about it; we never had it.

Q. Do you know where that option is? A. No, sir; I do not; I never saw it.

Q. Was it in the month of June or July that option was secured? A. I think it was in June.

Q. Of course, the option was simply as ordinary options are, a refusal for the purchase of the property by a certain period? A. I think so.

Q. When was that option secured? A. As I said yesterday, I think it was secured just before the signing of the papers, July 28, I think the option was for a few weeks.

Q. At that time, July 28, there was a transfer from the Milwaukee Company to Mr. Lane, was there? A. I don't know the dates of the deeds. A little before or about the 28th, I do not think all the papers transferring the Milwaukee Company were until after July 28.

Q. I am asking you? A. I don't know when it was; the record would show. It was about that time; I never knew.

Q. Do you know the amount that was paid for the Milwaukee Company by Mr. Perkins? A. Yes, sir; I gave it to you yesterday.

Q. You gave the amount paid to Mr. Perkins by the new company; I should say to Mr. Lane by the new company? A. That was the same amount.

Q. Do you know it was the same amount? A. I was informed that Mr. Perkins turned over to Mr. Lane the Milwaukee Company at the same price that he paid.

Q. Who told you that? A. I am quite sure Mr. Perkins did. The figures I gave yesterday was something over three millions of dollars.

Q. That was the amount of stock that was issued by the new company, or the New Jersey Company, upon this organization for the property? A. Yes, sir; so I understand.

Q. Did this option include the stock of the Milwaukee Company? A. I think it included everything they had.

Q. Did the first transfer of the Milwaukee Company to Mr. Lane also convey the stock? A. I could not say; I did not pay any attention to these legal details. I did not know all the steps that went on, but I imagine it did. I think the stock question only came up later when the idea of using the Milwaukee Company for a selling company.

Q. Some stress has been laid on it being an afterthought; how much after was it? A. Three or four weeks.

Q. Is it not a fact that was agreed on about the 12th of August? A. I do not think so.

Q. When was Miller put in as an officer of the Milwaukee Company? A. The records will show; I don't know from memory.

Q. Well, do you recollect whether it was in August? A. I pre-

sume that Miller was put in at the time of the signatures to the option; I should think so; you see there were no officers then, Mr. Bull and the rest of these gentlemen retired, and there had to be some officers, and this man, Mr. Fairchild, and whatever the other man's name was, they were elected at the suggestion of Mr. Perkins.

Q. That is, these two clerks were elected at the suggestion of Mr. Perkins? A. I would not say they were clerks; I said yesterday they were; they may have been lawyers in the Milwaukee Company. I was not acquainted with them, so my statement on that subject would not be convincing.

Q. Well there is no question on the point, Mr. McCormick, that it was in the month of July or the forepart of August, that Mr. Lane came into the possession of the stock of the Milwaukee Company? A. I could not say that, at the time the question came up of using the Milwaukee Company as a selling company the stock was transferred at or before that time, how much before I could not say.

Q. You knew at the time the proposition came up of using the Milwaukee Company as a selling company Mr. Lane had the stock? A. Yes, sir; I think so.

Q. Did you know who had it prior to that time Mr. Lane had gotten the stock? A. No, sir; I did not.

Q. In your answer to the interrogatories in the Kansas case, in answer to interrogatory sixteen, where you were asked to describe the method in which the International of New Jersey got the stock, you made this statement "that in the latter part of July, or forepart of August, William C. Lane purchased from the then owners and holders of the capital stock of the Milwaukee Company all said stock," that is correct, is it? A. That is correct then.

Q. Then it is a fact that Mr. Lane became the trustee or holder of this stock in the month of July, or early part of August? A. Yes, sir; if that is in my answer that is more correct than my memory, because I looked it up carefully then.

Selden P. Spencer, counsel for the Respondent:

Do you want the whole of that answer to go in; it amplifies it.

Q. Then it had been decided prior to the first of September to use the Milwaukee Company and maintain its corporate existence, had it not? A. Yes, sir; I think so.

Q. On the second of September there is what is called a contract made between the Milwaukee Company and the International Company of New Jersey, in which these facts were recited? A. Yes, sir; the decision of it, that was long enough before that to have the papers prepared.

Q. So it was in the month of August this decision was reached to maintain the existence and use the Milwaukee company? A. Very likely.

Q. So it was not at least very many days after the transfer of your property to Mr. Lane that this plan that was finally put in execution was decided upon? A. I believe I said only a few weeks; four weeks.

Q. From August 12 to first of September? A. Yes, sir; it was only two or three weeks.

Q. It is an indefinite period, but a very short one? A. Yes, sir.

Q. Of course, there is no question in your mind from the very time the option was secured, the capital stock of the Milwaukee Company was available for the organization of the New Jersey Company to do anything with it? A. I have no reason to doubt it; Mr. Perkins got it when he got the other, and it was available for whatever he thought advisable.

Q. Or what the combined judgment of you gentlemen would be? A. We had not exercised it on that. When he got it he took it after the formation, after it was turned over to the new company, the directors got it; what he thought about it I don't know.

Q. There never was any transfer of the Milwaukee Company to Mr. Perkins? It was made to Mr. Lane, or the American Company? Did it not go from the Milwaukee Company to Mr. Lane? A. Very probably so.

Q. When you did agree upon the plan on July 28, there was no question in your mind then or now that the stock was available for any purpose? A. I do not think there was any question. I would like to say, Mr. Hadley, emphatically, that on July 28, when we met and made that agreement, there was no idea of using the Milwaukee Company, whatever the time was, it was perfectly clear it was not to be used.

Q. I am trying to elicit from you how soon after you decided on that? A. That is right.

Q. Now, Mr. McCormick, in the payment by the New Jersey Company of the assets of these four companies, including the McCormick, by the stock of the New Jersey Company, the bills receivable of your company and of the Deering Company, that was a part of the consideration, were they not? A. They were not.

Q. It is recited in this contract, exhibit one, all bills receivable were collected and turned into money, and the money was turned into Morgan's office. All bills receivable to the amount of twenty million was mentioned in your contract? A. Yes, sir; I believe it was.

Q. You individually guaranteed, or you and your associates guaranteed, the collection of these bills receivable? A. Yes, sir; but the guarantee was to be in the form of money.

Q. So that the money realized from the bills receivable was turned over and you received stock therefor? A. Yes, sir.

Q. That was the case of all of the other companies? A. Not in all of them.

Q. What ones did transfer their bills receivable? A. The Deering Company did, and Mr. Jones of the Plano did. But the Champion people did not.

Q. They did not transfer their bills receivable? A. No, sir.

Q. And the Osborne people did not? A. No, sir.

Q. These were the three that transferred their bills receivable? A. Yes, sir.

Q. By bills receivable you mean notes you received from farmers?

A. Yes, sir.

Q. Who undertook the collection of these bills? Bills receivable? A. In case of those that assigned the bills receivable to the new company the new company undertook the collection.

Q. In the case of the Champion people, they did that themselves? A. Well, of course, if the new company did not get the bills receivable they had no use for them, no use for them to have anything to do with it.

Q. Did the Warder, Bushnell and Glessner put in money there instead of bills receivable? A. Yes, sir.

Q. That is recited in their contract? A. I don't know whether it is or not.

Q. That is your understanding? A. Yes, sir.

Q. So then the International of New Jersey upon taking over these properties then began the collection of the bills receivable of the McCormick, the Deering and the Plano Company? A. Yes, sir; that is right.

Q. Did the new company maintain an agency for that purpose? A. Yes, sir; they did.

Q. Maintained one down at St. Louis, did they not? A. Yes, sir; they did.

Q. How long did it take to complete the collection of these bills receivable? A. Why, it took several years; some of them are not collected yet.

Q. So the new company is still collecting these bills receivable? A. No, sir; after a certain time all former endorsed is settled and the bills receivable are taken up.

Q. You take them up as under your guarantee? A. Yes, sir.

Q. Was the same guarantee given by the Plano and the Deering people as given by you? A. Yes, sir; it was.

Q. So the stock payment of your company, of the Deering and Plano, was both for tangible assets and the intangible assets, of notes and accounts you had? A. It was clearly understood that the notes and accounts were only to be regarded as collateral, the payments must be made in cash.

Q. Whatever the transaction was? A. As to all bills receivable.

Q. Whatever form of transaction assumed, what was the purchase, cash? A. As to all bills receivable.

Q. You and I won't have any quibbling on terms. A. Except this, there was additional stock bought for cash.

Q. I am coming to that in a moment. It was by reason of the guarantee that was given by the individual members of this company that it was treated as cash? A. Yes, sir.

Q. Now, the stock that came to you or members of the McCormick or Plano or Deering Companies covered both the tangible property as well as these bills receivable? A. It did.

Q. Now, what proportion or amount of the one hundred and twenty millions worth of stock in the New Jersey Company was given to the stockholders of the Plano, Warder, Bushnell and Glassner, the Deering and the McCormick's and to the owner or holder of the Milwaukee property in exchange for the assets, accounts, good will, all

property, real, mixed or personal of these five companies? A. That is one of the questions I would not answer from memory. If you will leave that blank, I will compute it for you and tell you; I could not tell from memory.

Q. It is alleged in your answer in this case in substance as I understand it that about one hundred of millions of the stock of the new company was paid for by the members of these five companies that were take over.

Selden P. Spencer, counsel for the respondent: That is a mistake.

Q. And twenty millions in cash was paid over? A. No, sir; excuse me; twenty millions from outsiders was paid in.

Q. But there was cash paid in by these parties; they sold their interests for many millions of dollars in addition to the other property. I want to know Mr. McCormick, counting bills receivable, their plants, railroad companies and things like that, what was the payment in stock of these five companies for all these kinds of properties. A. I can get that figured very easily from subtracting all they got from the amount that they subscribed for in cash.

Q. How much each member of your company subscribed for in cash, not counting the bills receivable? A. If you will leave that blank I will give it to you.

Q. I suggest that you furnish a statement. A. Yes, sir; I will be very glad to.

Q. Perhaps it will include other questions. A. I would like to get it correct and not from memory; that is a matter of dollars and cents, a matter of five or six millions or more, that was subscribed for by the McCormick interest aside from all we got from properties and stocks and from the receivables. We subscribed for additional stock.

Q. They each subscribed for additional stock? A. Yes, sir.

Q. Did the members of other companies subscribe for additional stock? A. I believe they did, but not as much.

Q. Was there any per cent.? A. No, sir.

Q. Voluntary action on your part? A. Yes, sir.

Q. You bought it as a business investment? A. Yes, sir.

Q. It was not a matter of agreement or contract? A. No, sir.

Q. The opportunity was accorded to stockholders of each of these companies to take as much stock in the new company as they wanted to? A. Yes, sir. I will put that down and give it to you.

Hon. Theodore Brace, Commissioner: You do not object to letting him leave that blank and give you the exact figure?

Hon. Herbert S. Hadley, Attorney-General and counsel for the informant: My understanding is, they will make a statement of these other matters he has not information on, or at this time is not informed on. Then that can be introduced as an exhibit. A. I could not tell that from memory, and I would not want to guess at it.

Q. Do you know the amount or proportion of the capital stock of the New Jersey Company that was given to the McCormick people in exchange for their stock? A. Yes, sir; I can by referring to it; I can separate it if it is necessary.

Q. You can also furnish a statement of the amount of capital stock in the New Jersey Company that was given to the McCormicks to the Warder, Bushnell and Glessner and the Plano? A. Yes, sir.

Q. You will separate it from the bills receivable and the cash subscription? A. Yes, sir; all that I can get for you, if necessary.

A. According to this statement that you submitted here yesterday to me which does not contain exactly the information that I want, which you call exhibit "B," I have not introduced it as an exhibit here; it shows that there were three million dollars paid as formation expenses for the organization of these different companies on the organization of the New Jersey Company, is that a correct statement?

A. Which item do you refer to, Mr. Hadley?

Q. Well, you see there (indicating) that "The Milwaukee assets, having been bought and paid for in cash by the Morgan interests, were sold to Lane for the price paid, which, with the amount required for organization expenses and attorneys' fees, amounted to \$6,600,000.00," and here on the second page of exhibit "B" (indicating) you charge in for the Milwaukee Company, property and receivables \$3,148,196.66.

A. That is right.

Q. That would practically be \$3,300,000.00 you paid for formation expenses? A. Yes, sir; that is right.

Q. To whom did that go? A. Most of it went to Morgan and Company.

Q. Say three million in round numbers is what Perkins got for forming this company? A. Yes, sir.

Q. You think that enough? A. Yes, sir; I thought it was too much.

Q. I do too; I just wanted to get your idea. Do you know how much stock in addition to that Morgan and Perkins took? A. They subscribed for a large amount of stock and paid for it.

Q. They took it? A. Yes, sir.

Commissioner: This three million was in stock? A. Yes, sir; I would like to point out right there that it does not make any difference because the people that sold their properties paid that in the end, it did not come out of the new company.

Q. Manifestly that would be the case of whipping the devil around the stump? A. I mean the properties turned into the new company were so much more than the value of the stock they got, that all these expenses, all commissions and fees of every kind, was more than compensated by the extra value of the new company for the value of the property turned in.

Q. Do you mean the consolidation of the companies into the new company did increase the value of them, that it was a— A. No, sir; I mean the value the new company gave to the credit of these companies was less than the value given. They got it at a heavy discount.

Q. You agreed upon the method of determining the values? A. Yes, sir; by appraisers.

Q. That value was finally arrived at at a certain figure? A. Yes, sir; it was.



Q. And that was in accordance with the contracts agreed on?

A. Yes, sir; it was.

Q. It was your opinion that the properties were valued too low?

A. No, sir; I do not mean that at all; I mean—having fixed 120 million as the total stock issued, 60 million having been subscribed in cash, it left there the other 60 million for properties, and these properties were appraised at 76 million; that is what I mean.

Q. When you say 60 million was subscribed in cash that was for bills receivable and in lieu of bills receivable? A. Yes, sir; that was the same as cash.

Q. You treated it as cash? A. No, sir; we collected them and turned it in.

Q. The new company collected them? A. Yes, sir; it was placed to the credit of the subscribers, to the parties that owned the stock.

Q. You mean in short that the first appraisal made a higher value for these five companies that were turned into the International of New Jersey than was subscribed and paid for by the new company in stock? A. Yes, sir.

Q. The International of New Jersey has never applied to do business in Missouri except through the International Harvesting Company of America? A. Not that I know of.

Q. In round numbers what is the value of the properties that are owned by the International Harvester Company of New Jersey at the present time? A. Its plants and everything, if I had a computed statement I could tell you.

Q. Have you any idea about what? A. Well, any figure that I would make would be an estimate; you mean including all of the purchases?

Q. Yes, sir; all of the properties.

Commissioner: Q. Do I understand your question to be the present value of the properties?

General H. S. Hadley, counsel for informant: Yes, sir.

A. Well, it would be about seventy millions, I should think.

Q. Is that stock selling below par? A. I am talking about the value of the plants.

Q. I meant all of the properties of the International of New Jersey, that it owned? A. I thought you asked me of the value of the plants that were taken in.

Q. No, sir; I asked about the personal property, about all of the property of the International of New Jersey? A. If you mean the value of the stock, and if you mean the property, it is another thing—I think it is more.

Q. You think it is worth over 120 millions? A. I do.

Q. What surplus did you have last year? A. The surplus for five years—it was twelve millions.

Q. That is in addition to the dividends you paid? A. Yes, sir.

Q. And in addition to the expenditures for reproduction and increase in plant? A. That surplus is represented by expenditures for the plant.

Q. Have you not got a cash surplus? A. We have charged off a depreciation each year, certainly.

Q. Have you not spent about nineteen millions in the last five years increasing your plant, and have you not had about twenty millions surplus during that time? A. No, sir; my impression is, we had spent about seventeen millions for plant improvements.

Q. Your surplus now? A. Twelve millions.

Q. You mean 29 millions or 30 millions dollars in addition to the dividends? A. No, sir; the twelve million is a part of the seventeen.

Q. How much of the seventeen have you not expended? A. Well, if you will put the question—if you will pass that now, I will give you from the accounting department—I am not very well upon figures, I can tell you the surplus as represented by investment in the plant.

Q. Have you not the cash surplus on hand now? A. It is not represented on cash at all.

Q. You mean to say you paid out all your cash in dividends? A. Yes, sir; we have.

Q. You think that amount is 17 millions? A. I know the surplus is twelve, and I believe the expenditures for extra plant is 15 millions. If you have any figures to show it is 17, I will correct it; I think it is 15; but I will be glad, very glad, to furnish these figures from the accounting department; I have here the dividends, if you want them.

Q. You might give the amount of dividends paid—

(Witness hands Gen'l Hadley paper purporting to show dividends for certain years of the International Harvester Company of New Jersey.)

Q. You have handed me a paper showing the dividends of the International of New Jersey for the years 1903, 1904, 1905, 1906 and 1907, aggregating to \$22,200,000.00. In addition to that you have a surplus of \$12,000,000.00? A. Yes, sir.

Selden P. Spencer, counsel for the respondent: Do you introduce that, the exhibit?

General H. S. Hadley, counsel for the informant: Yes, sir.

Q. Making, as I understand you, a total profit the five years, for that time, \$34,000,000.00; is that correct? A. Yes, sir.

Q. In addition to that there has been an expenditure of five millions more, for reproduction of the plant? A. I would not be sure; I will furnish you that.

Q. In the year 1907 there was a rearrangement of stock? A. Yes, sir.

Q. You made sixty million preferred and sixty million common? A. Yes, sir.

Q. Was there any change in the holdings? A. No, sir; none as I know of. I would not say about a single share, but in substance not.

Q. There was a change in the management of the company? A. Yes, sir.

Q. Prior to that time the company had been managed by the vice-president? A. Yes, sir.

Q. These vice-presidents consisted of yourself, James Deering, W. H. Jones and J. J. Glessner? A. Yes, sir; and Harold McCormick.

Q. They were the principal officers of this organization from these four companies? A. Yes, sir; they were.

Q. And owing to the somewhat cumbersome machinery for that method, or with that method you decided to place more power with the president of the company? A. Yes, sir.

Q. These officers continued as the same? A. Yes, sir.

Q. And Mr. Funk was made general manager? A. Yes, sir.

Q. He was general manager before? A. No, sir; he was assistant to the president.

Q. Has the International of America ever paid any dividend? A. It has not.

Q. What surplus has it? A. About four hundred thousand dollars, I believe.

Q. Where are the meetings of the stockholders of the International of America held? A. In the office in Chicago, the central office, 237 Michigan avenue.

Q. That the office of the International Harvester Company of New Jersey? A. It is.

Q. There is an arrangement, is there, between the two companies made by yourself as president of each by which the salaries of certain agents or employees is divided between the two companies? A. There is wherever a man's duties include both the selling and manufacturing; his salary is prorated between the two.

Q. It is alleged in the answer, and I believe you stated yesterday that none of the stockholders in the Milwaukee Company as they existed prior to the month of July, 1902, became stockholders in the New Jersey Company? A. That is true.

Q. Did you take some of the officers of that company into the consolidation? A. If you mean by officers' employees, we employed all we could find of the former employees.

Q. Mr. R. D. Owen was a stockholder of the Milwaukee Company? A. Not that I know of. I do not know he was a stockholder.

Q. He went to the International of New Jersey? A. Yes, sir; he is still with us.

Q. What is his position? A. He has charge of the advertising and printing department; he is an important employe.

Q. He holds an important position? A. Yes, sir.

Q. A. F. Vanscoy? A. He was formerly with the Milwaukee Company, and now has charge of the collection department at Milwaukee.

Q. G. H. Schultz? A. He was formerly general manager, but he left us, and went to the J. I. Case Company.

Q. And he became general manager of your company, the New Jersey, for a while, did I understand you to say that? A. No, sir; he became manager for the manufacturing at Milwaukee.

Q. You spoke of Mr. Owens becoming head of the general ad-

vertising department of the America Company of New Jersey? A. Of the America Company.

Q. The International Harvester Company of New Jersey has no advertising department? A. No, sir.

Q. Does it use any catalogue? A. No, sir; not as I know of.

Q. In Canada it sells through the International of Canada? A. It sells to the International of Canada; it has a manufactory of its own at Hamilton.

Q. It also takes a part of the International of New Jersey output? A. Yes, sir.

Q. Does the International of New Jersey sell abroad? A. No, sir; the only thing it sells is steel, and it sells all its harvesters to the America Company.

Q. It sells all these harvesters to the America Company, and it sells them abroad? The America Company sells them abroad? A. Yes, sir.

Q. It is alleged in the answer that about the middle of September in the State of Missouri there was a large amount of property transferred to the International of America—you are familiar with the facts relating to that matter, are you? A. I am not. I know there was property.

Q. Was the property— A. I could locate it; I am not familiar with it by memory.

Q. You are familiar with the general fact? A. Yes, sir; certainly.

Q. Was the property in Missouri transferred to the International of America? A. I believe it was.

Q. Is or is it not a fact that the Deering Company or the Deering plant of such company and the Plano plant and the McCormick warehouses in Missouri was conducted for sometime after the consolidation as separate and distinct businesses? A. I do not think so legally. It was all assigned, the plant had merged; that is in fact.

Q. But as a matter of fact were these different companies—did they not for sometime run as separate business enterprises in this State? A. It took some months to get the machinery in operation by which the management was to come under one control at Chicago, but it was done as quickly as possible to do, in the meantime they went on under their general agents and vice-presidents and former heads of business, there was a certain self-jurisdiction a few months.

Q. You think that was only a few months? A. I should not think it was more than two or three months. Not more than three months. I do not believe it was that long before the management of all important questions all came to Chicago; I cannot believe it was more than three months; I believe all questions came to the central office at Chicago within three months.

Q. It is your idea that the property and plants in Missouri was transferred to the International of America, the respondent in this suit? A. Yes, sir.

Q. That is said to be six millions dollars, as stated in your answer; do you know whether that is correct? A. I would not wish to

change what the answer says. I cannot say it any better than the answer says it.

Q. What proportion of the stock of the International of New Jersey is owned by the officers and directors of the International of America? What proportion of the capital stock of the International of New Jersey is owned by the officers and directors and stockholders of the International of America? In other words, to simplify it, you nine men who are the directors of the Milwaukee Company own what proportion of the capital stock of the New Jersey Company? A. Well, I should say, if you mean officers and directors I should think about half, but if you mean stockholders of the old companies, it is much larger; it would be all except the new money subscribed by the people in New York.

Q. You own about five per cent.? A. The officers and directors of the America Company own about half; in case you mean the stockholders of the old companies, it would be all but twenty million dollars; that is the amount subscribed by the New York outsiders.

Q. Now, what is the total annual revenue of the International Harvester Company of America for goods sold in the United States for the years 1903, 1904, 1905, 1906 and 1907? A. I think I have got a statement of that, if you permit; here are the gross sales of the International Harvester Company of America; that is what you want? A. Yes, sir; I will offer that in evidence.

Q. You stated yesterday that the names of all of your companies were still maintained in the catalogues that were used? A. Yes, sir.

Q. Is there anything to show on the machines that they are manufactured by the International of New Jersey? A. I believe they do show the America Company on it; I would not be sure that the stencil of the International Harvester Company of New Jersey is there.

Q. I notice that point is emphasized in these written contracts which are signed as the Champion department or the McCormick division instead of department, what is the significance of that; are you keeping the business of these different divisions separate? A. That term "McCormick Division" is an old term that was used in the beginning to determine it; I do not believe the term division is used on the catalogues or contracts.

Q. Now, here are some contracts you produced as general agents' commission agency contracts, which is marked exhibit "C." A. These are the agency contracts; for some years, for convenience, they used the word "division" to represent the business that went with the names of these machines.

Q. These are contracts used by your company now, are they not? This is certainly one of your own contracts? A. I do not identify the year.

Q. The year is left blank? A. The fact that it has the word "Deering division" on there would indicate it was not this year's; we used them for at least three years.

Q. What was the point in that? A. Simply for convenience, to

distinguish the business of the various departments; there was no legal signification; it was for the convenience in the business.

Q. Accounts of the amount of business done in each one of these classes of implements kept separately? A. No, sir.

Q. Was not the idea that this New Jersey Company might be dissolved and turned back to the companies? A. No, sir; nothing of that kind.

Q. You expected to make the Harvester Company of New Jersey permanent? A. Yes, sir.

Q. Although you kept the companies separate? A. Yes, sir; the trade names were the valuable assets that was supposed to pay; one of the most valuable things we could be blessed with.

Q. You do not think the International Harvester Company has got to have these to subsist after its re-establishment? A. The names different would not be as well known.

Q. Are you familiar with the statistics showing the amount of harvesting machines manufactured by these five companies that went into the New Jersey Company that were made in the years 1901— A. Not from memory; of course, I could get any statistics that are necessary. You mean as to comparative volume?

Q. Yes, sir; what proportion of the business in the United States was done by the six companies? A. My impression is between 80 and 90 per cent.

Q. Of all six companies? A. Yes, sir.

Q. So then by 1903 these harvesting machine companies that had done between 80 and 90 per cent. was all taken over by one company? A. Their businesses were to become the business of the International Harvester Company.

Q. What per cent. of that entire business of harvesting machines was done by your Company and the Deering Company? A. A very large proportion; I could not tell the per cent.

Q. As high as 65 per cent? A. Of the 80 and 90?

Q. No; of the total. A. I should think 60 per cent. of the 80 or 90 per cent.; we are talking about the total. I think the McCormick and the Deering did 65 per cent. of that.

Q. Well, that brings me logically to this reputed speech of yours at Kansas City, you referred to it, it seemed to be in your mind. You are reported on the occasion of that speech in January, 1903, to have said that 95 per cent. of all of the capital employed in the harvesting machine business was consolidated in this corporation, the New Jersey Company, were you correctly quoted? A. Are you quoting from my speech or from a newspaper report?

Q. I am quoting from a sworn statement of Mr. Griggs. A. I would prefer to give you a copy of my speech; I do not think that is true.

Q. Suppose you send me a copy of your speech? A. I will.

Q. You made a statement? A. Yes, sir; I made a very careful statement. If they had only accepted the speech as made instead of some one who said they heard it I would be very much more satisfied.



It is one of the strangest things I have ever heard taking a man's recollection and not taking the speech itself.

Q. Does the defendant company sell any implements under more than one brand or make? A. You mean technically the same implement; yes, sir; substantially the same, it does.

Q. That is to supply these different divisions with a complete line of goods? A. Yes, sir.

Q. You have some machines you call Deering or Plano or McCormick; you have them in order to supply the dealer with a complete line? A. Yes, sir.

Q. They are practically the same machine? A. Yes, sir; usually some minor differences. In fact, they are very largely the same thing.

Q. The prices are the same? A. The prices are the same.

Q. I don't know whether you have stated, I will ask you it. Were all these companies that went into the New Jersey Company, were they manufacturing as well as selling companies? A. They were.

Q. Was a part of the unstable conditions incident to this unsettled condition prior to the formation of the New Jersey corporation a variation from the listed price and the selling of the machines, did that constitute a part of the unbusiness like methods that you mentioned? A. The unbusinesslike methods were a multitude of things.

Q. That a part of it? A. Yes, sir.

Q. That is, the Deering people would have a machine listed at \$90.00 and let the dealer have it for \$80.00? A. Yes, sir.

Q. Was that a common practice in giving of rebates? A. All kinds of subterfuges for modifying prices, taking old machines at large values when they had no value, throwing in other property, wasteful expenditure of money and time and salary of men.

Q. I was not asking you what you complained in detailed statement. I asked you if the selling below listed prices was one; was that true? A. Yes, sir.

Q. Now, since that time did you make one price on paper and get another price from the dealer? A. We do not.

Q. You maintain the prices listed? A. Yes, sir.

Q. And before that consolidation that was not done by any of the companies? A. Was not done so generally.

Q. Well, the truth of the matter is that a very large proportion, if not the larger proportion was made, the sales were made below the listed price? A. I could not say about the larger proportion.

Q. But a large proportion was? A. Yes, sir.

Q. Are you familiar with what is called the implement blue book? A. I am not by that name.

Q. It is a book used and published by the Midland Publishing Company of St. Louis; do you know of it in a general way? A. I will say if I know it—if you let me see it. I never saw it.

Q. Have you prepared a statement as to the number of each kind of machine, the number of manufacturers and the kinds of machines

in competition with respondent in the years 1903, 1904, 1905 and 1906 and 1907, as shown on page 15 of the defendant's answer? A. Yes, sir; I have.

Q. Have you definite information as to the number of these kinds of machines as sold by your competitors in the State? A. I have not.

Q. Is that information in the office of the International Harvester Company of America? A. No, sir; we have an estimate; we have no certain knowledge.

Q. You have an estimate? A. I presume we have some knowledge. Have no statement that would be correct.

Q. You have a statement upon which you act in the conduct of your business? A. Yes, sir.

Q. They are as correct as you can get from your agents? A. Yes, sir; the facts we can get.

Q. Will you furnish them in connection with this? A. If it is necessary or desirable we will give you all we know on the subject.

Q. I see you have here in this list reapers, mowers; have you not other things that you make? A. I understood you wanted the harvester line; have gasoline engines—

Q. That will do for the present.

Selden P. Spencer, counsel for the respondent: Do you want a list of the other products we sell?

General Herbert Hadley, counsel for the informant: No, sir; I do not think so.

A. We can give it to you or get it for you, if you wish it.

Q. Are you familiar with that part of the answer in which it relates to the increase of prices of the International Harvester Company of America upon the goods it sold which advance being operated in January, 1908? A. Yes, sir; I am familiar in a general way.

Q. I want some specific information. A. I could not give you as good information as some others, the general manager or members of the company.

Q. Perhaps you can answer this point, the answer alleges there had been an increase of approximately five per cent. in the price of implements sold? A. Yes, sir.

Q. You do not mean to say by that you do not understand the fact to be that this five per cent. was applied horizontally on all machines and implements sold? A. I understood it to be on the horizontal line.

Q. There was a much greater increase on some lines than others? A. Yes, sir.

Q. Five per cent. increase on the total amount of sales? A. I do not think that any increase made more than five per cent.

Q. Now, you know what a six-foot binder is, do you not? A. I do.

Q. You are very familiar with that? A. Yes, sir.

Q. Now, the price of a six-foot binder in 1902 at the time of the consolidation was \$95.00, was it not, list price? A. That is to the general agent?

Q. Yes, sir; to the dealer. A. Yes, sir.

Q. And the price in 1907 was \$107.60? A. No, sir; not generally.

Q. Was not that the list price? A. Not on the same basis as \$95.00. In other words, you mean there was an increase of \$12.50?

Q. Yes, sir. A. There was not.

Q. Does not that list price show that? A. It does not show the increase of \$12.50.

Q. How about 1908 prices? A. I thought that what you were referring to. There has been only one increase in price; that was this year 1908.

Q. What is the present price of a 16-foot binder? A. That is \$107.50.

Q. And the price at the time of the consolidation was \$95.00? A. I could not say that.

Q. Don't you know it was? A. Probably near \$100.00.

Q. Then there has been an increase of over five per cent. in the six-foot binder? A. You can pick out certain things where there was more or less, but I say the whole increase was not more than five per cent.

Q. The five per cent. applied to the gross amount of sales? A. Yes, sir.

Q. The total business was somewhere in the neighborhood of forty millions of dollars? A. Forty-two millions in 1906, forty-six millions in 1907.

Q. Then the increase in business was five per cent. on that amount? A. I do not think it would average as much as five per cent.

Q. That is what you mention in your answer, but upon the six-foot binder the increase has been over five per cent. during the time the new company has been in existence? A. I could not say from memory.

Q. This six-foot binder is one of the most frequent machines sold? A. Yes, sir.

Q. The average farmer with a quarter section, he wants a six-foot binder to cut his wheat and oats, rye and barley? A. Yes, sir; he does.

Q. And it is your idea he has to pay something like \$10.00 more for his binder than he did in 1902? A. About \$7.50 more; never any increase until this year.

Q. Never any increase in the list price? A. Yes, sir; but you may take the individual cases; that I cannot prove; but I am telling you the principle as they were sold.

Q. Now, take your eight-foot binder in 1902, what is the price? A. I have to refer—I do not carry those.

Q. Was it not \$115.00? A. It may have been.

Q. That the list price? A. The same increase in an eight-foot binder as in a six-foot.

Q. Are you familiar with the prices that the Acme and the other one sells in Missouri? A. No, sir; I am not familiar with them.

Q. Do you know whether they got as much as your company or not? A. I could not tell you.

Q. Your company also manufactures and sells twine? A. Yes, sir; it does.

Q. Sells it in Missouri? A. Yes, sir.

Q. You have different brands of twine for different kinds of machines? A. Yes, sir.

Q. Is it not all the same, about? A. All about the same standard of excellence.

Q. Do you sell it for the same price? A. Yes, sir; sell for the same price practically the same brand and standard.

Q. The prices vary some, do they not? A. Very little.

Q. Well, some? A. Yes, sir; in some cases.

Q. Do you not have what is called the "no tag" twine? A. Yes, sir.

Q. That is the same quality as the McCormick and the Deering? A. No, sir.

Q. Is it made in the same factory? A. Yes, sir; but there are various grades of twine in the same factory.

Q. All made out of sisal? A. No; of the various fibres, New Zealand, Manilla and sisal.

Q. That is placed in all of these different brands of twine? A. No, sir; pure manilla twines are made out of nothing but it.

Q. What is that sold as, Deering or McCormick? A. Deering pure manilla, or Champion, or McCormick pure manilla.

Q. What is your "No Tag" made out of? A. Some kind of fibre or different proportion, not as much good fibre.

Q. That is not sold under any name? A. Yes, sir; no tag twines; they will not rank in quality or excellence as well as the other twines.

Q. Do you not use this no tag twine for the purpose of competition? A. No, sir; we use it as a practical matter to use up all of the fibres; there are some fibres put in the no tag twine that do not go in other twines.

Q. Do you not use it as a practical proposition where the exigencies of competition necessitate it? A. That might be incidentally.

Q. You have pretty active competition from the binding twine in the State factories? A. We do.

Q. Now, in the answer something is said about the increased price in labor in the State of Missouri in 1907; did you personally furnish the information on what that statement in the answer is based? A. No, sir; I did not. Will you read it to me?

Q. Here it is. A. You mean this?

Q. Yes, sir. A. I had it prepared by the accounting department.

Q. They gave it to you? A. Yes, sir; the accounting and purchasing department.

Q. That was prepared sometime ago, was it? A. It was prepared this winter.

Q. It was prepared before what is called the October panic? A. Yes, sir.

Q. There has been quite a marked decrease in material and

labor in the last six months? A. Somewhat; not very marked until recently.

Q. You have made no reduction in your machinery since the decrease in labor? A. I should think not.

Q. You say that the respondent does not control more than thirty per cent. of the business of selling agricultural implements, tools and machinery in the State of Missouri.

Q. Did you furnish the information upon which that allegation in the answer is based? A. I did not.

Q. You do not understand that allegation in your answer would apply on the binders? A. No, sir.

Q. The per cent. is very much higher? A. Yes, sir. The 30 per cent. refers to the tillage implements and spring tools.

Q. You mean cultivators and— A. I mean the tillage implements, we do manufacture; we have a large line of them; I say the figures, the 30 per cent. refers to all the lines we manufacture.

Q. Your information on that line is hearsay? A. It has all come from the amount of the business, in the same way that most of my testimony.

Q. You do not understand that the thirty per cent. applies to the binders, reapers and mowers you manufacture? A. No, sir; it does not. I have stated that is higher.

Q. I believe you stated yesterday that the estimate you made of binders and reapers and mowers was 80 per cent.? A. Was 80 per cent.

Q. And that, however, you understand includes such things as cultivators, although your company manufactures a very small line of that kind of goods? A. The cultivators would go with the tillage implements; I do not call that the reaper line.

Q. Your company manufactures only one kind of cultivators sold in the East? A. Yes, sir.

Q. On those hills where they have to plant their crops with a shot gun? A. Yes, sir.

Q. The cultivators we use out here on our real farms you do not manufacture? A. No, sir.

Q. You do not manufacture grain drills or threshing machines, those kinds? A. No, sir.

Q. Or plows or planters? A. We manufacture some corn planters, not very large number.

Q. Now, you have produced here, Mr. McCormick, what is called special warranty deeds from William C. Lane and wife to the International Harvester Company, nine of them? A. Yes, sir.

Q. Are you familiar with these deeds? A. No, sir; I am not; I know they are authentic; they are taken from our files; I am familiar with them; I received them, and know they are true.

Q. Do these deeds, if you know from your knowledge of them, by Mr. Lane to the International Harvester Company of New Jersey convey the real property of these five different corporations that were taken over by the New Jersey Company? A. They do.

Q. And they were made in accordance, as you understand it,

with the contracts made in Mr. Cravath's office on July 28th, 1902?  
A. Yes, sir.

General Herbert S. Hadley, counsel for the informant: I wish to offer in evidence, I do not suppose the witness need identify it, or could, the certificate of incorporation of the International Harvester Company, dated August 12, 1902, and the same appears as follows, to-wit:

INTERNATIONAL HARVESTER COMPANY.

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CERTIFICATE OF INCORPORATION.

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Dated August 12, 1902.

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CERTIFICATE OF INCORPORATION

of

INTERNATIONAL HARVESTER COMPANY.

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State of New Jersey—ss.:

We, the undersigned, in order to form a corporation for the purposes hereinafter stated, under and pursuant to the provisions of the act of the legislature of the state of New Jersey, entitled: "An Act Concerning Corporations (Revision of 1896)," and the acts amendatory thereof and supplemental thereto, do hereby certify as follows:

I. The name of the corporation is

INTERNATIONAL HARVESTER COMPANY.

II. The location of its principal office in the state of New Jersey is at number 51 Newark street, in the City of Hoboken, County of Hudson. The name of the agent therein and in charge thereof and upon whom process against the corporation may be served is Hudson Trust Company. Said office is to be the registered office of said corporation.

III. The objects for which the corporation is formed are as follows, viz.:

To manufacture, sell and deal in harvesting machines, tools and implements of all kinds, including harvesters, binders, reapers, mowers, rakes, headers and shredders; agricultural machinery, tools and implements of all kinds; binder twine, and all repair parts and other devices, materials and articles used, or intended for use, in connection with any kind of harvesting or agricultural machines, tools or implements.

To engage in the manufacture or production of, and to deal in, any materials or products which may be used in, or in connection with, the manufacture of harvesting or agricultural machines, tools and implements.



To apply for, obtain, register, lease or otherwise acquire, and to hold, use, own, operate, sell, assign or otherwise dispose of, any trademarks, trade-names, patents, inventions, improvements and processes used in connection with, or secured under, letters patent of the United States or of other countries or otherwise.

The business or purpose of the corporation is, from time to time, to do any one or more of the acts and things herein set forth.

Without in any particular limiting any of the powers of the corporation, it is hereby expressly declared and provided that the corporation shall have power to guarantee any dividends or bonds, contracts or other obligations; to make and perform contracts of any kind and description; and in carrying on its business, and for the purpose of attaining or furthering any of its objects to do any and all other acts and things, and to exercise any and all other powers which a natural person could do and exercise, and which now are or hereafter may be authorized by law.

The corporation shall have power to conduct its business in other states and territories, and in foreign countries, and to have one or more offices out of the state of New Jersey, and to hold, purchase, mortgage and convey real and personal property both in and out of the state of New Jersey.

IV. The total authorized stock of the corporation is one hundred and twenty million dollars (\$120,000,000), divided into one million, two hundred thousand (1,200,000) shares, of the par value of one hundred dollars (\$100) each.

In case the corporation shall increase its capital stock and issue stock in addition to the one hundred and twenty million dollars (\$120,000,000) par value of stock hereby authorized, said one hundred and twenty million dollars (\$120,000,000) of stock shall, in case the holders of at least two-thirds of the capital stock at the time outstanding shall so determine by vote at the meeting of stockholders at which the first increase of capital stock is authorized, become and be preferred stock, entitled, as against all other stock of the corporation, to the preferences, priorities, and privileges hereinafter stated, and in such case the stock authorized, upon such increase in addition to said one hundred and twenty million dollars (\$120,000,000) of preferred stock, shall be common stock. The holders of such preferred stock shall be entitled to receive, when and as declared, from the surplus or net profits of the corporation, cumulative yearly dividends at the rate of six per cent. per annum, and no more, payable quarterly on dates to be fixed by the by-laws. The dividends on such preferred stock shall be cumulative, and shall be payable before any dividend on the common stock shall be paid or set apart, so that if in any year dividends amounting to six per cent. shall have been paid on the preferred stock, the deficiency shall be payable before any dividends shall be paid upon, or set apart for, the common stock.

Whenever all cumulative dividends on the preferred stock for all previous years shall have been declared and the accrued quarterly installments for the current year shall have been declared, and the corporation shall have paid such cumulative dividends for previous

years as well as such accrued quarterly installments, or shall have set aside from its surplus or net profits a sum sufficient for the payment thereof, the directors may declare dividends on the common stock, payable then or thereafter, out of any remaining surplus or net profits.

In the event of any liquidation or dissolution or winding up (whether voluntary or otherwise) of the corporation, then, before any amount shall be paid to the holders of common stock, the holders of preferred stock shall be entitled to be paid in full the par amount of their shares, and in addition thereto, all arrears of dividends—that is to say, an amount sufficient, with the dividends actually paid, to make six per cent. for each year; and after the payment to the holders of the preferred stock, of such par value and arrears of dividends, the remaining assets and funds shall be divided and paid to the holders of common stock pro rata according to their respective shares.

Neither the preferred nor the common stock of the corporation shall at any time be increased or diminished without the consent in writing, or by vote at a special meeting of stockholders called for the purpose, of at least two-thirds in amount of each class of stock at the time outstanding.

V. The names and postoffice addresses of the incorporators and the number of shares for which severally and respectively we do hereby subscribe (the aggregate of our said subscriptions being sixty thousand dollars (\$60,000) of stock, and being the amount of capital stock with which the corporation will commence business) are as follows:

Name and postoffice address.	Number of shares of stock.
Abram M. Hyatt, Allenhurst, New Jersey.....	100
George W. Hebard, 120 Broadway, New York, N. Y.....	100
Roland R. Dennis, Auburn, New York.....	100
Edward M. F. Miller, 40 Wall St., New York, N. Y.....	100
Robert S. Green, Elizabeth, New Jersey.....	100
Erastus M. Cravath, 30 West 44th Street, New York, N. Y. .	100

VI. The duration of the corporation shall be perpetual.

VII. The number of directors of the corporation shall be fixed from time to time by the by-laws; but the number, if fixed at more than three, shall be some multiple of three. The directors shall be classified with respect to the time for which they shall severally hold office by dividing them into three classes, each consisting of one-third of the whole number of the directors. In the first instance, the directors of the first class shall be elected for a term of one year; the directors of the second class for a term of two years; and the directors of the third class for a term of three years; and at each annual election the successors to the class of directors whose term shall expire in that year shall be elected to hold office for the term of three years, so that the term of office of one class of directors shall expire in each year.

The number of directors may be altered as may be provided in the by-laws. In case of any increase of the number of directors, the addi-

tional directors shall be elected, as may be provided in the by-laws, by the directors or by the stockholders at an annual or special meeting, and one-third of their number shall be elected for the then unexpired portion of the term of the directors of the first class, one-third of their number for the unexpired portion of the term of the directors of the second class, and one-third of their number for the unexpired portion of the term of the directors of the third class, so that each class of directors shall be increased equally.

An increase in the number of directors of any class shall be deemed to create vacancies in the board, to the extent of such increase, for the remainder of the term of the other directors of that class, and such vacancies may be filled in the manner herein provided.

In case of any vacancy in any class of directors, the remaining directors by affirmative vote of a majority of the directors may elect a successor to hold office for the unexpired portion of the term of the director whose place shall be vacant, and until the election of his successor. The directors shall have power to hold their meetings outside of the state of New Jersey.

All corporate powers shall be exercised by the directors except as otherwise provided by statute, or by this certificate. The by-laws may prescribe the number of directors necessary to constitute a quorum, which number may be removed at any time by vote of the directors, or by any committee or superior officer upon whom such power of removal may be conferred by the by-laws or by vote of the directors.

The directors by vote of a majority of the whole board may appoint from their number an executive committee and any other standing committees, and such committees shall have and may exercise such powers as may be conferred or authorized by the by-laws, or by the directors.

The directors may appoint not only other officers of the corporation, but also one or more vice-presidents, one or more assistant treasurers, and one or more assistant secretaries; and, to the extent provided in the by-laws or determined by the directors, the persons so appointed, respectively, shall have and may exercise all the powers of the president, of the treasurer and of the secretary, respectively.

The directors shall have power from time to time to fix and determine and to vary the amount of the working capital of the corporation, and to direct and determine the use and disposition of the working capital. In their discretion the directors may use and apply the working capital in purchasing or acquiring the shares of the capital of the corporation to such extent and in such manner and upon such terms as the directors shall deem expedient; but shares of such capital stock so purchased and acquired may be resold, unless such shares shall have been retired for the purpose of decreasing the capital stock of the corporation as authorized by law.

The corporation shall not create any mortgage or other lien upon its real estate, plants, tools, or machinery, without the consent, in writing or by vote at a special meeting, of the stockholders called for the purpose, of the holders of at least two-thirds of the entire capital

stock of the corporation at the time outstanding, and, if there be more than one class of stock, without the consent of the holders of at least two-thirds of each class of stock outstanding; but this restriction shall not be construed to apply to any purchase money mortgage lien.

Except as herein otherwise provided the directors shall have power and authority to sell, assign, transfer, convey or otherwise dispose of, all or any of the property and assets of the corporation on such terms and conditions as to the directors shall seem just and expedient, and to issue the bonds, debentures, notes and other obligations or evidences of debt of the corporation.

With the consent in writing, or by vote at a special meeting of stockholders called for the purpose of the holders of not less than two-thirds of all the capital stock of the corporation at the time outstanding, or if there be more than one class of stock, of not less than two-thirds of each class of stock, at the time outstanding, the directors of the corporation shall have power to sell, convey, or otherwise dispose of all the property, rights and franchises of the corporation as an entirety upon such terms and conditions and for such considerations, whether in cash, stocks, bonds or other property as the directors may in their discretion determine.

The directors from time to time shall determine whether, and to what extent, and at what times and places and under what conditions and regulations, the accounts and books of the corporation, or any of them, shall be open to the inspection of the stockholders, and no stockholder shall have any right to inspect any account or book or document of the corporation except as conferred by statute of the state of New Jersey, or authorized by the directors or by resolution of the stockholders.

The directors may make by-laws, and from time to time may alter, amend or repeal any by-laws; but any by-laws made by the directors may be altered or repealed by the stockholders at any annual meeting or any special meeting, provided notice of such proposed alteration or repeal be included in the notice of the special meeting.

Except as in this certificate otherwise provided, any action, which, prior to the passage of the act of the legislature of the state of New Jersey passed March 22, 1901, amending the 17th section of "An Act Concerning Corporations (Revision of 1896)" required the consent of the holders of two-thirds of the stock at any meeting after notice to them given, or required their consent in writing to be filed, may be taken upon the consent of and the consent given and filed by the holders of two-thirds of the stock of each class represented at such meeting in person or by proxy.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this twelfth day of August, 1902.

Abram M. Hyatt, (Seal)

George W. Hebard, (Seal)

Roland R. Dennis, (Seal)

Edward M. F. Miller, (Seal)

Robert S. Green, (Seal)

Erastus M. Cravath. (Seal)

Signed, sealed and delivered in presence of Marshall Van Winkle.

STATE OF NEW JERSEY, }  
 County of Hudson. } ss.

BE IT REMEMBERED that on this 12th day of August, 1902, before the undersigned personally appeared Abram M. Hyatt, George W. Hebard, Roland R. Dennis, Edward M. F. Miller, Robert S. Green and Erastus M. Cravath, who I am satisfied are the persons named in and who executed the foregoing certificate; and, I having first made known to them, and to each of them, the contents thereof, they did each acknowledge that they signed, sealed and delivered the same as their voluntary act and deed.

MARSHALL VAN WINKLE,  
 A Master in Chancery of New Jersey.

ENDORSED:

"Received in the Hudson Co., N. J., Clerk's office, Aug. 12th, A. D. 1902, and Recorded in Clerk's Record No. —, on page No. —.  
 Maurice J. Staek, Clerk."

"Filed Aug. 12, 1902.

S. D. Dickinson,  
 Secretary of State."

#### STATE OF NEW JERSEY, DEPARTMENT OF STATE.

I, S. D. Dickinson, Secretary of State of the State of New Jersey, do hereby certify that the foregoing is a true copy of CERTIFICATE OF INCORPORATION OF INTERNATIONAL HARVESTER COMPANY and the endorsements thereon, as the same is taken from and compared with the original filed in my office on the TWELFTH day of AUGUST, A. D. 1902, and now remaining on file and of record therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my OFFICIAL SEAL at Trenton, this thirty-first day of July, A. D. 1905.

(Seal)

S. D. Dickinson,  
 Secretary of State.

Hon. Herbert S. Hadley, counsel for the informant:

I also wish to offer in evidence the Amended Certificate of Incorporation of International Harvester Company, amended January 8, 1907, the same being a New Jersey charter.

Said Amended Certificate of Incorporation of International Harvester Company is in the words and figures as follows, to-wit:

#### AMENDED CERTIFICATE OF INCORPORATION.

of

#### INTERNATIONAL HARVESTER COMPANY

(As amended January 8, 1908.)

State of New Jersey—ss.:

We, the undersigned, in order to form a corporation for the purposes hereinafter stated, under and pursuant to the provisions of the

act of the legislature of the State of New Jersey, entitled: "An Act Concerning Corporations (Revision of 1896)," and the acts amendatory thereof and supplemental thereto, do hereby certify as follows:

I. The name of the corporation is International Harvester Company.

II. The location of its principal office in the State of New Jersey is at number 51 Newark street, in the City of Hoboken, County of Hudson. The name of the agent therein and in charge thereof and upon whom process against the corporation may be served is Hudson Trust Company. Said office is to be the registered office of said corporation.

III. The objects for which the corporation is formed are as follows, viz.:

To manufacture, sell and deal in harvesting machines, tools and implements of all kinds, including harvesters, binders, reapers, mowers, rakes, headers, shredders, machinery, engines, wagons, motor vehicles and vehicles of all kinds; agricultural machinery, tools and implements of all kinds; binder twine; and all devices, materials and articles used or intended for use in connection therewith; and all repair parts and other devices, materials and articles used, or intended for use, in connection with any kind of harvesting or agricultural machines, tools or implements, or any gasoline, electric or other vehicles.

To engage in the manufacture or production of, and to deal in, any materials or products which may be used in, or in connection with the manufacture of harvesting or agricultural machines, tools and implements.

To apply for, obtain, register, lease or otherwise acquire, and to hold, use, own, operate, sell, assign or otherwise dispose of, any trade-marks, trade-names, patents, inventions, improvements and processes used in connection with, or secured under, letters patent of the United States or of other countries or otherwise.

The business or purpose of the corporation is, from time to time, to do any one or more of the acts and things herein set forth.

Without in any particular limiting any of the powers of the corporation, it is hereby expressly declared and provided that the corporation shall have power to guarantee any dividends or bonds, contracts or other obligations; to make and perform contracts of any kind and description; and in carrying on its business and for the purpose of attaining or furthering any of its objects to do any and all other acts and things, and to exercise any and all other powers which a natural person could do and exercise, and which now are or hereafter may be authorized by law.

The corporation shall have power to conduct its business in other states and territories, and in foreign countries, and to have one or more offices out of the State of New Jersey, and to hold, purchase, mortgage and convey real and personal property both in and out of the State of New Jersey.

IV. The total authorized capital stock of the corporation is one hundred and twenty million dollars (\$120,000,000), divided into one million two hundred thousand (1,200,000) shares of the par value of



one hundred dollars (\$100) each. Of such total authorized capital stock, six hundred thousand (600,00) shares, amounting to sixty million dollars (\$60,000,000), shall be preferred stock, and six hundred thousand (600,000) shares amounting to sixty million dollars (\$60,000,000) shall be common stock.

The holders of preferred stock shall be entitled from and after February 15, 1907, to receive, when and as declared, from the surplus of the corporation, or from the net profits arising from the business of the corporation, cumulative dividends at the rate of seven per cent. per annum, and no more, payable quarterly on dates to be fixed by the by-laws. The dividends on such preferred stock shall be cumulative, and shall be payable before any dividend on the common stock shall be paid or set apart, so that if in any year dividends amounting to seven per cent. shall not have been paid on the preferred stock, the deficiency shall be payable before any dividends shall be paid upon, or set apart for, the common stock.

Whenever the cumulative dividends on the preferred stock for all previous years and the accrued quarterly installments for the current year shall have been declared, and the corporation shall have paid the same, or shall have set aside from its surplus, or from the net profits arising from its business, a sum sufficient for the payment thereof, the directors may declare dividends on the common stock, payable then or thereafter, out of any remaining surplus of the corporation or out of any remaining net profits arising from its business.

In the event of any liquidation or dissolution or winding up (whether voluntary or otherwise) of the corporation, then, before any amount shall be paid to the holders of common stock, the holders of preferred stock shall be entitled to be paid in full the par amount of their shares, and in addition thereto, all arrears of dividends—that is to say, an amount sufficient, with the dividends actually paid, to make seven per cent. for each year; and after the payment to the holders of the preferred stock, of such par value and arrears of dividends, the remaining assets and funds shall be divided and paid to the holders of common stock pro rata according to their respective shares.

Neither the preferred nor the common stock of the corporation shall at any time be increased or diminished without the consent in writing, or by vote at a special meeting of stockholders called for the purpose, of at least two-thirds in amount of each class of stock at the time outstanding.

V. The names and post-office addresses of the incorporators and the number of shares of stock for which severally and respectively we do hereby subscribe (the aggregate of our said subscriptions being sixty thousand dollars (\$60,000) of stock, and being the amount of capital stock with which the corporation will commence business), are as follows:

Name and postoffice address.	Number of shares of stock.
Abraham M. Hyatt, Allenhurst, New Jersey.....	100
George W. Hebard, 120 Broadway, New York, N. Y.....	100
Roland R. Dennis, Auburn, New York.....	100
Edward M. F. Miller, 40 Wall St., New York, N. Y.....	100
Robert S. Green, Elizabeth, New Jersey.....	100
Erastus M. Cravath, 30 West 44th Street, New York, N. Y..	100

VI. The duration of the corporation shall be perpetual.

VII. The number of directors of the corporation shall be fixed at more than three, shall be some multiple of three. The directors shall be classified with respect to the time for which they shall severally hold office by dividing them into three classes, each consisting of one-third of the whole number of the directors. In the first instance, the directors of the first class shall be elected for a term of one year; the directors of the second class for a term of two years; and the directors of the third class for a term of three years; and at each annual election the successors to the class of directors whose terms shall expire in that year shall be elected to hold office for the term of three years, so that the term of office of one class of directors shall expire in each year.

The number of directors may be altered as may be provided in the by-laws. In case of any increase of the number of directors, the additional directors shall be elected, as may be provided in the by-laws, by the directors or by the stockholders at an annual or special meeting, and one-third of their number shall be elected for the then unexpired portion of the term of the directors of the first class, one-third of their number for the unexpired portion of the term of the directors of the second class, and one-third of their number for the unexpired portion of the term of the directors of the third class, so that each class of directors shall be increased equally.

An increase in the number of directors of any class shall be deemed to create vacancies in the board, to the extent of such increase, for the remainder of the term of the other directors of that class, and such vacancies may be filled in the manner herein provided.

In case of any vacancy in any class of directors, the remaining directors by affirmative vote of a majority of the directors may elect a successor to hold office for the unexpired portion of the term of the director whose place shall be vacant, and until the election of his successor. The directors shall have power to hold their meetings outside of the State of New Jersey.

All corporate powers shall be exercised by the directors except as otherwise provided by statute, or by this certificate. The by-laws may prescribe the number of directors necessary to constitute a

quorum, which number may be less than a majority of the whole number of directors.

Any officer or employee of the corporation may be removed at any time by vote of the directors, or by any committee or superior officer upon whom such power of removal may be conferred by the by-laws or by vote of the directors.

The directors by vote of a majority of the whole board may appoint from their number an executive committee and any other standing committees, and such committees shall have and may exercise such powers as may be conferred or authorized by the by-laws, or by the directors.

The directors may appoint not only other officers of the corporation, but also one or more vice-presidents, one or more assistant treasurers, and one or more assistant secretaries, and to the extent provided in the by-laws or determined by the directors, the persons so appointed, respectively, shall have and may exercise all the powers of the president, of the treasurer and of the secretary, respectively.

The directors shall have power from time to time to fix and determine and to vary the amount of the working capital of the corporation, and to direct and determine the use and disposition of the working capital. In their discretion the directors may use and apply the working capital in purchasing or acquiring the shares of the capital stock of the corporation to such extent and in such manner and upon such terms as the directors shall deem expedient; but shares of such capital stock so purchased and acquired may be resold, unless such shares shall have been retired for the purpose of decreasing the capital stock of the corporation as authorized by law.

The corporation shall not create any mortgage or other lien upon its real estate, plants, tools, or machinery, without the consent, in writing or by vote at a special meeting of the stockholders called for the purpose, of the holders of at least two-thirds of the entire capital stock of the corporation at the time outstanding, and, if there be more than one class of stock, without the consent of the holders of at least two-thirds of each class of stock outstanding; but this restriction shall not be construed to apply to any purchase money mortgage or lien.

Except as herein otherwise provided the directors shall have power and authority to sell, assign, transfer, convey or otherwise dispose of, all or any of the property and assets of the corporation on such terms and conditions as to the directors shall seem just and expedient, and to issue the bonds, debentures, notes and other obligations or evidences of debt of the corporation.

With the consent in writing, or by vote at a special meeting of stockholders called for the purpose of the holders of not less than two-thirds of all the capital stock of the corporation at the time outstanding, or if there be more than one class of stock, of not less than two-thirds of each class of stock, at the time outstanding the directors of the corporation shall have power to sell, convey or otherwise dispose of all the property, rights and franchises of the corporation as an entirety upon such terms and conditions, and for such

considerations, whether in cash, stocks, bonds or other property as the directors may in their discretion determine.

The directors from time to time shall determine whether, and to what extent, and at what time and places and under what conditions and regulations, the accounts and books of the corporation, or any of them, shall be open to the inspection of the stockholders, and no stockholder shall have any right to inspect any account or book or document of the corporation except as conferred by statute of the State of New Jersey, or authorized by the directors or by resolution of the stockholders.

The directors may make by-laws, and from time to time may alter, amend or repeal any by-laws made by the directors may be altered or repealed by the stockholders at any annual meeting or at any special meeting, provided notice of such proposed alteration or repeal be included in the notice of the special meeting.

Except as in this certificate otherwise provided, any action, which, prior to the passage of the act of the legislature of the State of New Jersey, passed March 22, 1901, amending the 17th section of "An act concerning corporations (revision of 1896)," required the consent of the holders of two-thirds of the stock at any meeting after notice to them given, or required their consent in writing to be filed, may be taken upon the consent of and the consent given and filed by the holders of two-thirds of the stock of each class represented at such meeting in person or by proxy.

In witness whereof, we have hereunto set our hands and seals this twelfth day of August, 1902.

Abraham M. Hyatt,	(Seal)
George W. Hebard,	(Seal)
Roland R. Dennis,	(Seal)
Edward M. F. Miller,	(Seal)
Robert S. Green,	(Seal)
Erastus M. Cravath,	(Seal)

Signed, sealed and delivered in presence of Marshall Van Winkle.

STATE OF NEW JERSEY, }  
 } ss.  
 County of Hudson. }

Be it remembered, that on this 12th day of August, 1902, before the undersigned, personally appeared Abraham M. Hyatt, George W. Hebard, Roland R. Dennis, Edward M. F. Miller, Robert S. Green and Erastus M. Cravath, who I am satisfied are the persons named in, and who executed the foregoing certificate; and, I having first made known to them, and to each of them, the contents thereof, they did each acknowledge that they signed, sealed and delivered the same as their voluntary act and deed.

MARSHALL VAN WINKLE,  
 A Master in Chancery of New Jersey.

## (ENDORSED.)

Received in the Hudson Co., N. J., Clerk's office on August 12th, A. D., 1902, and recorded in Clerk's record No. —, on page No. —.

MAURICE J. STACK, Clerk.

"Filed Aug. 12, 1902.

S. D. DICKINSON,  
Secretary of State."

Hon. Herbert S. Hadley, Counsel for the Informant:

I desire to offer in evidence such portion of the charter of the Milwaukee Company as found on pages of the articles of association of the International Harvester Company of America, as follows: Pages 33, 34, 35, 36, 37, 38 and 39, and as filed October 3, 1902, in the Secretary of State's office of the State of Missouri, October 3, 1902. This offer will avoid the necessity of the same being rewritten.

Said exhibit is marked Exhibit 6, and is in words and figures as follows, to wit:

## STATE OF MISSOURI, DEPARTMENT OF STATE.

## TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, John E. Swanger, Secretary of State of the State of Missouri, and the keeper of the Great Seal thereof, hereby certify that the annexed pages contain a full, true and complete copy of pages 33, 34, 35, 36, 37, 38 and 39, of copy of articles of association of INTERNATIONAL HARVESTER COMPANY OF AMERICA, filed October 3, 1902, as the same appears on file in this office.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the Great Seal of the State of Missouri. Done at the City of Jefferson, this 15th day of April, A. D. 1908.

(Seal)

JNO. E. SWANGER,  
Secretary of State.

Chief Clerk.

We, George P. Miller, as President of the "Milwaukee Harvester Company," and Arthur W. Fairchild, as Secretary of the "Milwaukee Harvester Company," hereby certify that the following amendment of the articles of association of the Milwaukee Harvester Company was adopted on the 5th day of September, 1902, at a meeting of the members of said Milwaukee Harvester Company, held on said date at the office of said Milwaukee Harvester Company, in Milwaukee, Wisconsin, by a vote of the owners of 10,000 shares of the stock of said Milwaukee Harvester Company, and that at said time there was then outstanding 10,000 shares of the stock of said Milwaukee Harvester Company.

That the following copy is a true copy of said original amendment and of the whole thereof, namely:

**RESOLVED**, That article 2 of the articles of association of the Milwaukee Harvester Company be amended so as to read as follows:

Article 2. The name of this corporation shall be the "International Harvester Company of America," and its location and principal office shall be in the city of Milwaukee, Wisconsin.

**IN WITNESS WHEREOF**, Said George P. Miller as President of the Milwaukee Harvester Company, and said Arthur W. Fairchild as Secretary of said Milwaukee Harvester Company have caused the corporate seal of said Milwaukee Harvester Company to be hereto affixed and have signed these presents this 5th day of September, 1902.

GEO. P. MILLER,

As President of the Milwaukee Harvester Company.

ARTHUR W. FAIRCHILD,

As Secretary of the Milwaukee Harvester Company.

Milwaukee  
Harvester  
Company  
Seal

STATE OF WISCONSIN,     }  
  } ss.  
DEPARTMENT OF STATE, }

Received and filed this 6th day of September A. D., 1902.

HY. P. SCHMIDT,

Assistant Secretary of State.

We, George P. Miller, as President of the International Harvester Company of America, and Arthur W. Fairchild, as secretary of said company, hereby certify that the following amendments of the articles of association of the International Harvester Company of America, were adopted on the 18th day of September, 1902, at a meeting of the members of said International Harvester Company of America, held on said date at the office of the International Harvester Company of America in Milwaukee, Wisconsin, by a vote of the owners of ten thousand shares (10,000) of the capital stock of said company, and that at said time there was outstanding ten thousand (10,000) shares of the capital stock of said company.

That the following is a true copy of said original amendments and of the whole thereof, viz.:

**RESOLVED**, That the articles of association of the International Harvester Company of America be amended by striking out all the provisions of the said articles of association now in force, and by substituting therefor the following:

# **AMENDMENT TO THE ARTICLES OF ASSOCIATION OF THE INTERNATIONAL HARVESTER COMPANY OF AMERICA.**

**First.**—The incorporators associate themselves together for the purpose of forming a corporation under the laws of the State of Wisconsin.

**Second.**—The business and purposes of the corporation shall be to



manufacture, sell and deal in harvesting machines, tools and implements of all kinds, including harvesters, binders, reapers, mowers, rakes, headers and shredders; agricultural machinery, tools and implements of all kinds; binder twine, and all repair parts and other devices, materials and articles used, or intended for use, in connection with any kind of harvesting or agricultural machines, tools or implements.

To engage in the manufacture or production of, and to deal in, any materials or products which may be used in, or in connection with, the manufacture of harvesting or agricultural machines, tools and implements.

To apply for, obtain register, lease or otherwise acquire, and to hold, use, own, operate, sell, assign or otherwise dispose of, any trade-marks, trade-names, patents, inventions, improvements and processes used in connection with, or secured under, letters patent of the United States or of other countries or otherwise.

The business or purpose of the Corporation is, from time to time, to do any one or more of the acts and things herein set forth.

Without in any particular limiting any of the powers of the Corporation, it is hereby expressly declared and provided that the Corporation shall have power to guarantee any dividends or bonds, contracts or other obligations; to make and perform contracts of any kind and description; and in carrying on its business and for the purpose of attaining or furthering any of its objects to do any and all other acts and things, and to exercise any and all other powers which a natural person could do and exercise, and which now are, or hereafter may be, authorized by law.

The Corporation shall have the power to conduct its business in other states and territories, and in foreign countries, and to have one or more offices out of the State of Wisconsin, and to hold, purchase, mortgage and convey real and personal property both in and out of the State of Wisconsin.

Third.—The name of the Corporation is International Harvester Company of America.

Fourth.—The location of the corporation is the City of Milwaukee, Milwaukee County, Wisconsin, but it may have places of business at other points, either within or without the State of Wisconsin, and may transact business in all places, either within or without, the State of Wisconsin.

Fifth.—The capital stock is one million (1,000,000) dollars, divided into ten thousand (10,000) shares, of the par value of one hundred (100) dollars each.

Sixth.—The general officers shall be a President, four (4) Vice-Presidents, a Secretary and a Treasurer. The President shall, subject to the Board of Directors, have general charge of the business of the Company; he shall do and perform such other duties as from time to time may be assigned to him by the Board of Directors, or as may be specified in the by-laws. Each Vice-President shall have such powers and shall perform such duties as from time to time may be assigned to him by the Board of Directors, or as may be specified in the by-laws. The Secretary shall keep the minutes of all the meetings of the Board of Directors, and the minutes of all meetings of the stockholders; he shall, in general, perform all the duties incident to the office of Secretary, sub-

ject to the control of the Board of Directors, and shall perform such other duties as from time to time may be assigned to him by the Board of Directors, or as may be specified in the by-laws. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the stockholders; he shall, in general, perform all the duties incident to the office of Secretary, subject to the control of the Board of Directors, and shall perform such other duties as from time to time may be assigned to him by the Board of Directors or as may be specified in the by-laws. The Treasurer shall, subject to the directions of the Board of Directors, have custody of all the funds and securities of the Company which may come into his hands; he shall perform all acts incident to the position of Treasurer, subject to the control of the Board of Directors, and shall perform such other duties as from time to time may be assigned to him by the Board of Directors, or as may be specified in the by-laws.

The same person may hold more than one office.

Seventh.—The Board of Directors shall consist of nine (9) members, who shall be elected at such times and for such terms as may be provided by the by-laws of the Company. The Directors shall have power to hold their meetings outside of the State of Wisconsin. All corporate powers shall be exercised by the Directors, except as otherwise provided by law or by these articles. The by-laws may prescribe the number of Directors necessary to constitute a quorum, which number may be less than a majority of the whole number of Directors. Any officer or employe of a corporation may be removed at any time by vote of the Directors or by any committee or superior officer, upon whom such power of removal may be conferred by the by-laws or by vote of the Directors. The Directors, by vote of a majority of the whole number, may appoint from their number an Executive Committee, and any other standing committee, and such committees shall have and may exercise such powers as may be conferred or authorized by the by-laws or by the Directors. The Directors may appoint officers other than those named in these articles, who shall perform such duties as from time to time may be assigned to them by the Board of Directors, or as may be specified in the by-laws. The Directors may make by-laws, and from time to time may alter, amend or repeal any by-laws. But any by-laws made by the Directors may be altered or repealed by the stockholders at any annual meeting or at any special meeting, provided notice of such alteration or repeal be included in the notice of the special meeting.

Eighth.—The stock shall be transferable by assignment in such manner as shall be prescribed by the Board of Directors.

Registered holders of the certificates of stock of the corporation shall be entitled to vote, in person or by proxy, at all meetings of the Corporation, and each share of stock shall be entitled to one vote. At any meeting of the stockholders the holders of one-third (1-3) of all the shares of the capital stock of the Company, present in person or represented by proxy, shall constitute a quorum of the stockholders for all purposes, unless the representation of a larger number shall be required by law, and, in that case, the representation of the number so required, shall constitute a quorum.

Ninth.—The duration of the corporation shall be perpetual.

IN WITNESS WHEREOF, Said George P. Miller, as President of the International Harvester Company of America, and said Arthur W. Fairchild, as Secretary of said Company, have caused the corporate seal of said International Harvester Company of America to be hereto affixed, and have signed these presents this 18th day of September, 1902.

GEO. P. MILLER,

As President.

ARTHUR W. FAIRCHILD,

As Secretary.

International  
Harvester Company  
of America  
Corporate Seal

STATE OF WISCONSIN, }  
DEPARTMENT OF STATE. } ss.

Received and filed this 22nd of September, A. D. 1902.

HY. P. SCHMIDT,

Assistant Secretary of State.

UNITED STATES OF AMERICA,

STATE OF WISCONSIN.

DEPARTMENT OF STATE.

To all to Whom these Presents shall come:

I, William H. Froehlich, as Secretary of State of the State of Wisconsin, and keeper of the great seal thereof, do hereby certify that I am the keeper of the official state records containing the Articles of Association of the Parker-Dennett Harvesting Machine Company and all the amendments thereof, including amendments changing the name of said corporation to Dennett Harvesting Machine Company and then to Milwaukee Harvester Company and finally to the International Harvester Company of America; that the annexed copy of said Articles and Amendments has been compared by me with the original records on file in this department and that the same is a true copy thereof and of the whole of such records; and I further certify that this attestation is in due form and by proper officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the great seal of the state at the capital in the City of Madison, this 25th day of September, 1902.

WM. H. FROEHLICH,

Secretary of State.

[SEAL.]

Filed Oct. 3, 1902,

SAM. B. COOK,

Secretary of State.

Hon. Herbert S. Hadley, counsel for the Informant:

I desire to offer in evidence a copy of the voting trust agreement made between the stockholders, between the International Harvester Company, between William C. Lane and George W. Perkins, Charles Deering and Cyrus H. McCormick, dated August 13, 1902.

Said agreement being in words and figures as follows, to-wit:

**COPY.**

**THIS AGREEMENT**, made in the City of New York this thirteenth day of August, one thousand nine hundred and two, by and between William C. Lane, party of the first part, and George W. Perkins, Charles Deering and Cyrus H. McCormick (hereinafter called the "Voting Trustee,") parties of the second part,  
**WITNESSETH AS FOLLOWS:**

Whereas, the International Harvester Company (hereinafter called the "Company,") is a corporation organized under the laws of the State of New Jersey, with a capital stock of \$120,000,000, divided into 1,200,000 shares, of the par value of \$100 each, all of which stock has been issued and is outstanding; and

Whereas, the party of the first part has caused to be delivered to the Voting Trustees certificates for fully-paid shares of the capital stock of the company to the amount of its entire capital stock (excepting such shares as are necessary to qualify directors); and said certificates, together with such other certificates for stock of the company as hereafter, from time to time, may be delivered hereunder, are to be held and disposed of by the Voting Trustees under and pursuant to the terms and conditions hereof;

**NOW, THEREFORE,**

First. The Voting Trustees agree with the party of the first part, and with each and every holder of stock trust certificates issued as hereinafter provided, that, from time to time, upon request, they will cause to be issued to the party of the first part, or upon his order, in respect of said stock of the company received from him, certificates in substantially the following form:

**INTERNATIONAL HARVESTER COMPANY.**

No.

Shares.

**STOCK TRUST CERTIFICATES.**

**THIS CERTIFIES**, that, as hereinafter provided, .....  
.....will be entitled to receive a certificate or certificates for .....  
..... fully paid shares of one hundred dollars each, of the capital stock of the International Harvester Company, and, in the meantime, to receive payments equal to the dividends if any, collected by the undersigned Voting Trustees upon a like number of such shares standing in their names; such dividends, if received by the Voting Trustees in stock of said company, to be payable in stock trust certificates. Until the actual delivery of such stock certificates, the Voting Trustees shall possess, in respect of any and all of such stock, and shall be entitled, in their discretion, to exercise, all rights and powers of absolute owners of said stock, including the right to vote for every purpose and to consent to any corporate act of said company; it being expressly stipulated that no voting right passes by or under this certificate, or by or under any agreement expressed or implied.

This certificate is issued pursuant to, and the rights of the holder

are subject to, and limited by, the terms and conditions of a certain agreement, dated the thirteenth day of August, 1912, by and between William C. Lane and the undersigned Voting Trustees.

Stock certificates shall be due and deliverable in exchange for stock trust certificates on, but not before, August 1, 1912, unless a majority of the Voting Trustees elect, as they may, to terminate said agreement after August 1, 1907, upon not less than ninety days' notice.

This certificate is transferable only on the books of the Voting Trustees by the registered holder hereof, either in person or by attorney duly authorized, according to rules established for that purpose by the Voting Trustees, and on surrender hereof; and, until so transferred, the Voting Trustees may treat the registered holder as owner hereof for all purposes whatsoever, except that they shall not be required to deliver stock certificates hereunder without surrender hereof.

This certificate is not valid unless duly signed on behalf of the undersigned Voting Trustees by ..... their agents and also registered by ..... as Registrar.

IN WITNESS WHEREOF, the undersigned Voting Trustees have caused this certificate to be signed by their duly authorized agents ..... this ..... day of ....., one thousand nine hundred and .....

Voting Trustees

By....., their agents.

By.....President.

Registered this ..... day of ....., 19...

.....Registrar,

By.....Secretary."

Second. At any time after August 1, 1907, if a majority of the Voting Trustees so decide, this agreement may be terminated; but at least ninety days' notice of an intention to terminate this agreement must be given by the Voting Trustees according to the provisions of Article Tenth hereof. This agreement shall in any event terminate on August 1, 1912, without notice by or action of the Voting Trustees. On August 1, 1912, or upon the earlier termination of this agreement, the Voting Trustees, in exchange for, or upon surrender of, any stock trust certificate then outstanding, shall, in accordance with the terms hereof, deliver proper certificates of stock of the company, and may require the holders of stock trust certificates to exchange them for certificates of capital stock.

In case on or after the termination of said agreement the Voting Trustees shall deposit with an incorporated bank or trust company of good standing, having an office in the City of New York, stock certificates properly endorsed for transfer in blank, representing stock of the company to a par amount equal to the par amount of the stock trust certificates outstanding, with authority in writing to such bank or trust company to deliver the same in exchange for stock trust certificates when and as surrendered for exchange as herein provided, then all further liability of said trustees, or any of them, for the delivery of stock certificates in exchange for stock trust certificates shall cease and determine.

Third. The term company, for the purposes of this agreement and for all rights thereunder, including the issue and delivery of stock, shall be taken to mean the said corporation organized under the laws of the State of New Jersey, or any successor corporation or corporations into which the same may be consolidated or merged.

Fourth. From time to time hereafter, the Voting Trustees may receive any additional fully paid shares of the capital stock of the company, and in respect of all such shares so received, will issue and deliver certificates similar to those above mentioned, entitling the holders to the rights above specified. In case the company shall hereafter have both common and preferred stock the Voting Trustees may receive, subject to the provisions hereof, certificates representing fully paid stock of each class, and the stock trust certificates shall indicate upon their face whether they represent common or preferred stock, and holders of stock trust certificates representing one class of stock shall have no interest in, or claim upon, stock of the other class. In any such event the stock trust certificates outstanding shall be surrendered by the holders thereof in exchange for new certificates specifying the class of stock, whether preferred or common, represented thereby. In case the Voting Trustees shall receive any stock of the company issued by way of dividend upon stock held by them subject to said agreement, they shall hold such stock subject to the terms of said agreement, and shall issue stock trust certificates representing such stock to the respective registered holders of the then outstanding stock trust certificates entitled to such dividend.

Fifth. Any Voting Trustee may, at any time, resign by delivering to the other trustees, in writing, his resignation, to take effect ten days thereafter. In case of the death or the resignation or the inability of any Voting Trustee to act, the vacancy so occurring shall be filled by the appointment of a successor or successors, to be made as follows: Any successor in the line of succession to George W. Perkins shall be appointed by J. P. Morgan & Co., as said firm now is or may hereafter be constituted. Any successor in the line of succession to Charles Deering shall be appointed by James Deering, or in case of his failure to act, by Richard F. Howe, and in case of the failure of either to act, by the other two Voting Trustees. Any successor in the line of succession to Cyrus H. McCormick shall be appointed by Harold F. McCormick, or in case of his failure to act, by Stanley McCormick, and in case of the failure of either to act, by the other two Voting Trustees. The term Voting Trustee, as used herein and in said certificates shall apply to the parties of the second part and their successors hereunder.

Sixth. The Voting Trustees may adopt their own rules of procedure. The action of a majority of the Voting Trustees expressed from time to time at a meeting or by writing with or without a meeting, shall, except as otherwise herein stated, constitute the action of the Voting Trustees and have the same effect as though assented to by all. Any Voting Trustee may vote in person or by proxy, and may act as a director or officer of the company.

Seventh. In voting the stock held by them, the Voting Trustees will exercise their best judgment from time to time to secure suitable



directors, to the end that the affairs of the company shall be properly managed, and in voting and in acting on other matters which shall come before them as stockholders or at stockholders' meetings, will likewise exercise their best judgment, but they assume no responsibility in respect of such management or in respect of any action taken by them or taken in pursuance of their consent thereto as such stockholders, or in pursuance of their vote so cast, and no Voting Trustee shall incur any responsibility by reason of any error of law or of any matter or thing done or suffered or omitted to be done under this agreement, except for his own individual wilful malfeasance.

**Eighth.** The Voting Trustees possess and shall be entitled in their discretion to exercise until the actual delivery of stock certificates in exchange for stock trust certificates, all rights and powers of absolute owners of said stock, including the right to vote for every purpose and to consent to any corporate act of said company, it being expressly stipulated that no voting right passes to others by or under said stock trust certificates, or by or under this agreement, or by or under any agreement, expressed or implied; the Voting Trustees shall not, however, during the pendency of this agreement, vote in respect of the shares of the capital stock of the company held by them, to authorize or consent to any mortgage or other lien upon the property of the company, or (except as herein otherwise specifically provided) to authorize any increase or diminution in the amount of the authorized capital stock of said company, except with the consent in each instance of the holders of stock trust certificates representing two-thirds in amount of each class of stock at the time deposited hereunder, given in writing, or by vote at a meeting called for that purpose; provided, however, that the Voting Trustees may, in their discretion, prior to July 1, 1903, without the consent of holders of any stock trust certificates, consent to and authorize the increase of the company's capital stock to an amount not exceeding one hundred and eighty million dollars (\$180,000,000).

**Ninth.** For the purpose of this agreement any consent in writing by the holders of stock trust certificates may be in any number of concurrent instruments of similar tenor, and may be executed by the certificate holders in person, or by agent or attorney appointed by an instrument in writing. Proof of the execution of any such consent, or of a writing appointing any such agent or attorney, or of the holding by any person of stock trust certificates issued hereunder, shall be sufficient for any purpose of this indenture, and shall be conclusive in favor of the Voting Trustees with regard to any action taken by them under such consent, if made in the following manner, viz: (a) The fact and date of the execution by any person of any such consent may be proved by the certificate of any notary public or other officer authorized to take, either within or without the State of New York, acknowledgement of deeds to be recorded in any State, certifying that the person signing such consent acknowledged to him the execution thereof; or by the affidavit of a witness to such execution. (b) The amount of stock trust certificates held by any person executing any such consent and the issue of the same, may be proved by a certificate executed by any trust company; bank or other depository (wheresoever situated) whose certificate shall

be deemed by the Voting Trustees to be satisfactory, showing that at the date therein mentioned such person had on deposit with such depository, or exhibited to it, the stock trust certificates numbered and described in such depository's certificate.

Tenth. All notices to be given to the holders of stock trust certificates hereunder shall be given either by mail to the registered holders of stock trust certificates at the addresses furnished by such holders to the Voting Trustees or to the agents of the Voting Trustees, or by publication in two daily papers of general circulation in the City of New York and in two daily papers of general circulation in the City of Chicago, twice in each week for two successive weeks; and any call or notice whatsoever, when either mailed or published by the Voting Trustees as herein provided, shall be taken and considered as though personally served on all parties hereto, including the holders of said stock trust certificates, and such mailing or publication shall be the only notice required to be given under any provision of this agreement.

Eleventh. This agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the several parties have hereunto set their hands and seals, in the City of New York the day and year first herein above mentioned.

(L. S.)

(L. S.)

(L. S.) Voting Trustees.

(L. S.)

Hon. Herbert S. Hadley, counsel for the Informant:

I desire to offer in evidence a copy of the Declaration of Trust, the same being the Voting Trust agreement under date of March 19th, 1903, in reference to the capital stock of the respondent company. Same is marked Exhibit Eight and is in the words and figures as follows, to-wit:

#### DECLARATION OF TRUST.

We, George W. Perkins, Charles Deering and Cyrus H. McCormick, in consideration of one (1) dollar and other good and valuable considerations to us paid by the stockholders of the International Harvester Company, a New Jersey corporation, the receipt of which is hereby acknowledged, do hereby declare that we are possessed of nine thousand, nine hundred, ninety-one (9,991) shares of the capital stock of the International Harvester Company of America, a Wisconsin corporation, IN TRUST, solely for the benefit and advantage of the stockholders of the International Harvester Company, as a class, as said class shall be from time to time constituted; and we, for ourselves, our executors, administrators and assigns, hereby covenant with the stockholders of the International Harvester Company, as a class, that we, and the survivors and survivor of us, and the executors and administrators of such survivor, shall and will, at any time hereafter, at the request of a ma-

jority in interest of the stockholders of the International Harvester Company, as at that time constituted, assign and transfer the said shares to said stockholders, or to their order, in the same proportions as the proportions of their respective interests in the capital stock of the International Harvester Company.

Dated, this nineteenth day of March, A. D. 1903.

(Signed) Geo. W. Perkins (SEAL)

(Signed) Charles Deering (SEAL)

(Signed) Cyrus H. McCormick (SEAL)

STATE OF NEW YORK, }  
COUNTY OF NEW YORK } ss.

I, B. W. Wilson, a Notary Public in and for said county in the state aforesaid, do hereby certify that George W. Perkins, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this sixth day of April, A. D. 1903.

(Signed) B. W. WILSON,  
Notary Public.

STATE OF ILLINOIS, }  
COUNTY OF COOK } ss.

I, George A. Ranney, a Notary Public in and for said county in the state aforesaid, do hereby certify that Charles Deering, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 19th day of March, A. D. 1903.

(Signed) GEORGE A. RANNEY,  
Notary Public.

STATE OF ILLINOIS, }  
COUNTY OF COOK } ss.

I, George A. Ranney, a Notary Public in and for said county in the state aforesaid, do hereby certify that Cyrus H. McCormick, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 19th day of March, A. D. 1903.

(Signed) GEORGE A. RANNEY,  
Notary Public.

Hon. Herbert S. Hadley, counsel for the Informant:

I desire to offer in evidence the Memorandum of Agreement made the 2nd day of September, 1902, between the International Harvester Company, a corporation of the State of New Jersey, and the Milwaukee Harvester Company, a corporation of the State of Wisconsin, same being marked Exhibit 9 and appearing in the words and figures as follows, to-wit:

Memorandum of Agreement made this 2d day of September, 1902, between the International Harvester Company, a corporation of the State of New Jersey (hereinafter referred to as the Manufacturing Company), party of the first part, and the Milwaukee Harvester Company, a corporation of the State of Wisconsin (hereinafter referred to as the Selling Company), party of the second part:

The Manufacturing Company is engaged in the business of manufacturing harvesting and agricultural machinery, tools and implements and twine and in selling its products in the United States of America and other countries.

The Selling Company is duly authorized by law to engage in the business of selling harvesting and agricultural machinery, tools and implements and twine. The Selling Company desires to enter into a contract with the Manufacturing Company for the purchase and sale of the former's products in the United States of America and elsewhere.

In consideration of the premises and agreements herein contained and other valuable considerations, the receipt whereof from each party is hereby acknowledged, the parties hereto covenant and agree as follows:

1. The Selling Company shall undertake the sale of the Manufacturing Company's products in the territory aforesaid and shall maintain such branch houses, warehouses and agencies and employes as shall be necessary to that end. The Selling Company shall do such advertising and take such measures as shall be necessary to exploit the sale of the Manufacturing Company's products.

The Selling Company shall purchase from the Manufacturing Company from time to time such of the Manufacturing Company's products as it requires to fill its orders and carry a sufficient stock at its various warehouses and branch houses.

All of the Manufacturing Company's products purchased by the Selling Company shall be purchased free on board the cars at the city in which is located the particular plant at which the products purchased were manufactured and all products so purchased and delivered shall be the property of the Selling Company.

The Manufacturing Company shall manufacture such harvesting and agricultural machinery, tools and implements and twine of the kinds heretofore manufactured by the plants of the Manufacturing Company, as well as of such other kinds as the parties hereto may agree upon, as the Selling Company shall require for its business and shall carry such a stock of the various kinds of machinery, tools and implements and twine as shall be necessary to meet the requirements of the Selling Company's business.

2. The prices to be paid by the Selling Company for the product of the Manufacturing Company purchased under the provisions of this contract shall be the following:

#### SCHEDULE:

The prices of any articles not expressly mentioned in this schedule shall be such as may be agreed upon by the General Manager of Manufacturing for the time being of the Manufacturing Company, and the General Manager of Sales for the time being of the Selling Company, or as may be otherwise fixed in any legal way. Settlements between the two companies shall be made not later than the first day of February in each year for the business of the preceding year. The Selling Company may make payments either in cash or in accounts and bills receivable received by it from its agents and customers, or partly in cash and partly in such accounts and bills receivable. The Selling Company hereby guarantees the payment at maturity of the principal of and interest upon all accounts and bills receivable so used in payment. In case any of such accounts and bills receivable are not paid at maturity the same may, at the option of the Manufacturing Company, be re-assigned to the Selling Company and in such case the Selling Company shall pay the Manufacturing Company in cash the amount of principal of and interest accrued up to the time of such re-assignment upon the accounts and bills receivable so re-assigned.

The Selling Company further agrees that it will, without delay, take such action as shall be necessary in law for the changing of its corporate name from "Milwaukee Harvester Company" to "International Harvester Company of America."

This contract shall continue in force until October 1, 1903, and thereafter from year to year unless terminated by either party on any first day of October on at least thirty (30) days previous notice in writing to the other.

IN WITNESS WHEREOF, the parties to this contract have caused their respective corporate names to be hereunto subscribed by their respective presidents and their respective corporate seals to be hereunto affixed, duly attested by their respective secretaries, all as of the day and year first above written.

INTERNATIONAL HARVESTER COMPANY,

By CYRUS H. McCORMICK (Signed)

Its President.

ATTEST:

(SEAL)

RICHARD F. HOWE, (Signed)

Secretary.

MILWAUKEE HARVESTER COMPANY,

By GEO. P. MILLER (Signed)

Its President.

ATTEST:

(SEAL)

ARTHUR W. FAIRCHILD (Signed)

Secretary.

Hon. Herbert S. Hadley, counsel for the Informant:

I also desire to offer in evidence a contract of agreement or Memorandum of Agreement, between the International Harvester Company of New Jersey and the International Harvester Company of America, a corporation of the State of Wisconsin, made the 1st day of January, 1907, and being marked Exhibit 10.

Said Memorandum of Agreement is in the words and figures as follows, to-wit:

COPY.

MEMORANDUM OF AGREEMENT Made this first day of January, A. D., 1907, between the International Harvester Company, a corporation of the State of New Jersey (hereinafter referred to as the Harvester Company), party of the first part, and the International Harvester Company of America, a corporation of the State of Wisconsin (hereinafter referred to as the America Company), party of the second part

WITNESSETH: The Harvester Company is the owner of manufacturing plants for and is engaged in the business of, manufacturing harvesting and agricultural machinery, tools and implements, and engines, vehicles and twine, and in selling such products, to be used throughout the United States of America and in many foreign countries. The America Company is duly authorized by law to engage in the business of selling the goods and articles aforesaid in the various states of the United States and in foreign countries, and is now engaged in that business; and it desires to enter into a contract with the Harvester Company under which the latter will manufacture for sale to the former such kinds and quantities of harvesting and agricultural machinery, tools, implements, engines, vehicles and twine as may be required from time to time by the America Company.

In consideration of the premises and of the respective agreements herein contained and of other valuable considerations, the receipt whereof from each party by the other is hereby acknowledged, said parties hereby covenant and agree as follows:

1. The Harvester Company shall manufacture such kinds and lines of harvesting and agricultural machinery, tools and implements, and engines, vehicles and twine as have been heretofore manufactured by it at its plants, and also such other kinds thereof as the America Company shall from time to time notify the Harvester Company are required for the business of the America Company. Provided, however, that the Harvester Company shall not be required to manufacture new and additional kinds of such articles unless and until it has had not less than six months' notice from the America Company of the kinds and quantities of such new articles, and until the details of the manufacture, the minimum quantity to be purchased, and the prices and terms of delivery of such articles have been agreed upon between the parties hereto.

2. The Harvester Company shall carry such a stock of the various kinds of articles aforesaid as shall be reasonably necessary to meet the demands of the America Company's business—provided, however, that



the America Company shall, at least three months prior to the beginning of each season, give written notice to the Harvester Company of the probable demands of the America Company for the various kinds of articles aforesaid, during such season.

3. The Harvester Company shall at all times maintain the present standard of durability and efficiency of the articles now being manufactured by it, and guarantees that any additional lines manufactured by it for the America Company shall be made of first-class materials and will properly perform the work which they are designed to perform.

4. The America Company shall undertake the sale of the Harvester Company's products, of the character above listed, wherever a profitable market for the same can be found, and shall maintain such branch houses, warehouses and selling agencies and employ such agents, salesmen and other employes as shall be necessary to that end. The America Company shall also do such advertising and take such other measures as shall be reasonably necessary to advance the sale of the Harvester Company's products.

The America Company shall purchase from the Harvester Company from time to time such of its aforementioned products as it may require to fill its orders, and to carry a sufficient stock at its various warehouses and branch houses. All of the products aforesaid of the Harvester Company, purchased by the America Company, shall be purchased free on board the cars at the city in which is located the particular plant at which the products purchased are manufactured, and all products so purchased and delivered shall thereupon become the property of the America Company.

5. Annexed hereto and marked "Exhibit A" and made a part hereof is a schedule of prices at which the Harvester Company shall sell and the America Company shall purchase the former's products, and such schedule shall remain in force until changed by mutual agreement. Sixty days before the close of each calendar year each party shall notify the other of whatever changes it desires to make in prices mentioned in said schedule; and if within thirty days thereafter the parties cannot agree upon revised prices either party may, at its option, terminate this contract by written notice to that effect.

6. The America Company may pay for such products, or any of them, either in cash or in accounts and bills receivable received from its customers, and the America Company hereby guarantees the payment, at maturity, of the principal and interest of all such accounts and bills receivable as the Harvester Company may accept in payment for such purchase. In case any of such accounts or bills receivable are not paid at maturity the same may, at the option of the Harvester Company, be resold to the America Company, and in such case the America Company shall forthwith pay, in cash, to the Harvester Company the amount of principal and interest due upon the accounts and bills receivable so resold.

The America Company shall pay the Harvester Company for all purchases hereunder as rapidly as the America Company's collections of cash and customers' notes will permit; and on or before the 31st day

of December of each year settlements in full shall be made by the America Company for all goods purchased by it from the Harvester Company during the previous calendar year.

7. The Harvester Company hereby agrees that it will not hold the officers, directors or stockholders of the America Company personally liable on or for any debt or claim which the Harvester Company may have against the America Company, and the Harvester Company hereby agrees to indemnify and hold harmless each officer, director and stockholder of the America Company from all and every personal liability for any amount whatsoever by reason of these debts or claims or any debt or claim against the America Company under any statute of any state or territory, or otherwise.

IN WITNESS WHEREOF, the parties to this contract have caused their respective corporate names to be hereunto subscribed by their proper officers respectively and their respective corporate seals to be hereunto affixed, duly attested by their respective Assistant Secretaries, all as of the day and year first above written.

INTERNATIONAL HARVESTER COMPANY,

By CYRUS H. McCORMICK,

(SEAL.)

Its President.

ATTEST:

HAROLD F. McCORMICK,

Its Assistant Secretary.

INTERNATIONAL HARVESTER COMPANY OF AMERICA.

(SEAL.)

By W. H. JONES.

Its Vice President.

(SEAL.)

ATTEST:

CHAS. W. ALLEN,

Its Assistant Secretary.

Hon. Herbert S. Hadley, counsel for the Informant:

I also offer in evidence a memorandum of agreement made on the 1st day of July, 1907, between the International Harvester Company, a New Jersey corporation, and the International Harvester Company of America, a Wisconsin corporation, dated July 1, 1907, and being marked Exhibit II.

Said Memorandum of Agreement is in the following words and figures, to-wit:

COPY.

#### DISTRIBUTION OF EXPENSES OF GENERAL OFFICERS AND DEPARTMENTS.

MEMORANDUM OF AGREEMENT made this 1st day of July, 1907, between the International Harvester Company a New Jersey corporation, first party, hereinafter called the International Company, and the International Harvester Company of America, a Wisconsin corporation, second party, hereinafter called the America Company.

WHEREAS under the organization effected for the conduct of the business of the parties hereto each of said parties has established gen-

eral executive offices and a law department, an accounting department, a treasury department, a purchasing department, and a traffic department; and

WHEREAS certain of the employes of one company may conveniently and economically be used for the service of the other company in certain of its said offices and departments;

NOW, THEREFORE, the parties hereto mutually agree as follows:

(1) The same employes and business organization in the general executive offices and also in each of the departments above named, shall serve each of the parties hereto as far as may be convenient and economical. The heads of said officers and departments of the respective companies shall determine, in their discretion, the respective claims of the parties hereto on such employes and business organization in said offices and departments, respectively.

(2) The salaries and general office expenses of said general executive offices and of said departments which shall serve each of the parties hereto shall be divided between the parties hereto as follows:

Departments.	International's per cent.	America's per cent.
Executive Dept. ....	66 2-3	33 1-3
Treasury Dept. ....	60	40
Accounting Dept. ....	65	35
Law Dept. ....	50	50
Purchasing Dept. (of the International) .....	90	10
Traffic Dept. (Portion of total expense primarily paid by America) .....	40	60

(3) Each of the parties hereto shall pay all other expenses incurred in the several departments and in the general executive and administrative offices aforesaid in connection with its own business.

IN WITNESS WHEREOF each of the parties hereto has caused its corporate name to be hereunto subscribed by its president or vice-president and its corporate seal to be hereunto affixed, duly attested by its assistant secretary, all as of the first day of July, 1907.

INTERNATIONAL HARVESTER COMPANY,

By CYRUS H. McCORMICK,

Its President.

(SEAL.)

ATTEST the seal of said Company:

W. M. GALE,

Its Assistant Secretary.

INTERNATIONAL HARVESTER COMPANY OF AMERICA.

By W. H. JONES,

Its Vice President.

ATTEST the seal of said Company:

CHAS. W. ALLEN,

Its Assistant Secretary.

(SEAL.)

Examination resumed by Hon. Herbert S. Hadley:

Q. Was there any agreement previous to this agreement, which you have produced here of July 1st, 1907, of similar character with reference to the division of expenses? A. There was always an agreement that is the substance of it, it was in various forms. It was the same general kind of agreement, that is only a modified form.

Q. I see that is signed by W. H. Jones, Vice-President of the International of America? A. Yes, sir.

Q. You were President of the International of America at the time? A. Yes, sir.

Q. They were signed at the same time? A. Yes, sir.

Hon. Herbert S. Hadley, counsel for the Informant:

It is my understanding that counsel will furnish these statements with reference to matters that Mr. McCormick has not been able to testify, and I assume we can introduce these statements so far as we can offer them, and as far as we want to.

Commissioner: Yes, sir; it is my understanding that will be the case.

#### CROSS-EXAMINATION BY SELDEN P. SPENCER.

Q. When you speak of the fierce competition that preceded the formation of the New Jersey Company in 1902, what do you mean?

A. I refer to the general extreme and unbusinesslike condition that the trade had gotten into. Where things that are done for the sake of accomplishing sales that are unbusinesslike, wasteful expenditures of salary, and forces of men to sell goods to farmers who do not need them, pressure of the trade in general. Pressure of the trade in general and the things that any business man would recognize that are not in the interest of the buyer but simply a result of excitement and overheated antagonism of sellers.

Q. How long was that true before the fall of 1902? A. Why it was growing in intensity for several years.

Q. What was its result upon the trade or companies that were engaged in the harvester trade? A. The result was very unfortunate, it had thrown the harvester business more into an appearance of a warfare than the appearance of steady regular trade. It had caused the failure of a large part of the companies.

Q. Can you name any companies that had failed in the year's preceding, 1902, in the harvesting business? A. Yes, sir; I have a list that I had—

Hon. Herbert S. Hadley, counsel for the Informant:

I submit your Honor—I do not care anything about it, it is not any material point in evidence here, no statement of the counsel shows any necessity or gives a cause to inquire as to the cause of the failure of each of these companies, and that will have to be inquired into if the evidence is allowed to go in as to companies failing, and will be incompetent unless the witness has a personal knowledge of cause of each failure.

Commissioner: It would be an incident to the state of the busi-

ness. A. It is a matter of public knowledge of those who are engaged in the business.

Seldon P. Spencer, counsel for the Respondent: Your Honor will remember a question by General Hadley, concerning a list of the companies doing business between 1894 and 1902, and in response to that question, this witness gave a number of companies. Now we think it is competent evidence to show there were companies that failed and quit before 1902, and the cause.

Commissioner: Proceed with the examination.

A. I will only speak generally. A good many of the companies that were in existence had failed because of the strenuous character of the business. The St. Paul Harvesting Company was one. The Sieberling another, Whitley, Forsythe and Kelley, Champion Harvester Company another, the Winona Harvester Company another; The Esterly Harvester Company another. These were the ones I mentioned yesterday, and about all substantially of these I think had ceased business because of the strenuous character of the business.

Q. What do you mean by ceasing business? A. Stopped the business, gone out of the manufacturing.

Q. Mr. McCormick, did you ever make up a list of the companies together with their location, that were in competition with the Harvester Company in the different line of goods each had, that was manufacturing and existing in 1902, and substantially up to 1905? A. I did.

Q. Is that the list? A. Yes, sir; this was prepared in our office.

Q. So far as you know that is substantially correct now, is it not? A. I could tell that it was prepared, I could not tell as to each individual company.

Seldon P. Spencer, counsel for Respondent:

I offer that as an exhibit, and the same is marked Exhibit "A" by the reporter.

Said Exhibit "A" is in words and figures as follows, to wit:

Recapitulation of number of manufacturers making products in competition with the International Harvester Company.

Total number of competing manufacturers.....	446
1. Binders. . . . .	7
2. Clover Bunchers. . . . .	4
3. Corn Binders. . . . .	15
4. Cultivators. . . . .	69
5. Cream Separators. . . . .	24
6. Corn Planters. . . . .	44
7. Drills. . . . .	40
8. Gasoline Engines. . . . .	126
9. Harrows—	
Disk. . . . .	55
Spring tooth. . . . .	27
Peg tooth. . . . .	62
10. Hay Presses. . . . .	44
11. Hay Stackers. . . . .	21

12. Headers. . . . .	5
13. Huskers & Shredders. . . . .	18
14. Knife & Tool Grinders. . . . .	13
15. Manure Spreaders. . . . .	14
16. Mowers. . . . .	17
17. Pickers. . . . .	1
18. Rakes. . . . .	41
19. Reapers. . . . .	7
20. Sweep Rakes. . . . .	22
21. Seeders. . . . .	29
22. Tedders. . . . .	16
23. Twine. . . . .	25
	746
24. Wagons (Total Manufacturers). . . . .	104

Mills.	Location—Estimated sales, 1905 (Tons)	Capacity (Tons) (Day run only)
American Mfg. Co. . . . .	Brooklyn, N. Y. . . . .	1,000 3,000
St. Louis Cordage Co. . . . .	St. Louis, Mo. . . . .	2,000
Bay State Cordage Co. . . . .	Ludlow, Mass. . . . .	500
Bradley Cordage Co. . . . .	Dayton, Ohio . . . . .	2,000
Easton Cordage Co. . . . .	Easton, Pa. . . . .	1,000
E. H. Fitler & Co. . . . .	Philadelphia, Pa. . . . .	500 5,000
J. C. Groendyke Co. . . . .	Miamisburg, Ohio. . . . .	4,000 2,000
Hooven & Allison . . . . .	Xenia, Ohio . . . . .	500 4,000
Thos. Jackson & Sons. . . . .	Reading, Pa. . . . .	500
R. A. Kelly Company. . . . .	Xenia, Ohio . . . . .	500
Lawrence Cordage Work . . . . .	Brooklyn, N. Y. . . . .	1,500
Ludlow Cordage Company . . . . .	Ludlow, Mass. . . . .	2,500 3,000
Peoria Cordage Co. . . . .	Peoria, Ill. . . . .	1,500 4,000
Plymouth Cordage Co. . . . .	Plymouth, Mass. . . . .	20,000 20,000
Portland Cordage Co. . . . .	Portland, Oregon . . . . .	3,000
Portland Cordage Co. . . . .	Seattle, Wash. . . . .	1,500
Standard Rope & T. Co. . . . .	Brighton, Mass. . . . .	500 10,000
Standard Rope & T. Co. . . . .	Morgan Ave., Br'klyn } . . . . .	
Standard Rope & T. Co. . . . .	Waterbury, Brooklyn } . . . . .	
Travers Brothers . . . . .	Brooklyn, N. Y. . . . .	
Tubbs Cordage Co. . . . .	San Francisco, Cal. . . . .	3,000
Waterbury Rope Co. . . . .	Brooklyn, N. Y. . . . .	500 2,500
Waterbury Rope Co. . . . .	Brooklyn, N. Y. . . . .	
Tucker & Carter. . . . .	Brooklyn, N. Y. . . . .	
Wall Rope Works. . . . .	Beverly, N. J. . . . .	500
Kansas Prison . . . . .	Lansing, Kansas . . . . .	1,500
No. Dakota Prison. . . . .	Bismark, N. Dak. . . . .	6,000 1,500
Minnesota Prison . . . . .	Stillwater, Minn. . . . .	5,000
Missouri Prison . . . . .	Jefferson City, Mo. . . . .	1,500
International Harv. Co. . . . .		65,000 65,000
Canadian . . . . .		500
		102,500 144,000



## FARM WAGONS.

Name.	Address.	Trade name.
1. Abingdon Wagon Co.....	Abingdon, Ill...	Clinton, Abingdon
2. Acme Wagon Co.....	Emigsville, Pa. ....	Acme
3. Auburn Wagon Co.....	Martinsburg, W. Va.....	Auburn
4. Austin, Tomlinson & Webster Mfg. Co. ....	Jackson, Mich. ....	Jackson
5. Avery Mfg. Co.....	Peoria, Ill. ....	Avery
6. Alphens Bailey .....	Sand Lake, N. Y.....	Bailey
7. Bain Wagon Co., Ltd.....	Kenosha, Wis. ....	Bain
8. Geo. E. Bechtolt.....	Urbana, Ohio .....	Excelsior
9. Belknap Wagon Co.....	Grand Rapids, Mich.....	Belknap
10. Beggs Wagon Co.....	Kansas City, Mo.....	Beggs
11. Beggs, Goodson Wagon Co....	Hannibal, Mo. ....	Beggs-Goodson
12. Berres-Gehl Mfg. Co.....	West Bend, Wis.....	(not given)
13. Bettendorff Axle Co.....	Davenport, Ia. ....	Bettendorff
14. Birdsell Mfg. Co.....	South Bend, Ind.....	Birdsell
15. Bode Wagon Co.....	Cincinnati, Ohio .....	Bode
16. Brown Buggy Co.....	Waterloo, Ia. ....	Brown
17. Brown Mfg. Co.....	Zanesville, Ohio .....	Brown
18. Buerkens Mfg. Co.....	Pella, Ia. ....	Buerkens
19. H. J. Buhr & Co.....	Washington, Mo. ....	Champion
20. Burg Wagon Co.....	Burlington, Ia. ....	Burg
21. Geo. S. Cady & Co.....	Moravia, N. Y.....	Walker
22. Chase City Mfg. Co.....	Chase City, Va.....	Chase City
23. Champion Wagon Co.....	Oswego, N. Y.....	Champion
24. Columbia Wagon Co.....	Columbia, Pa. ....	Columbia
25. Columbus Wagon Co.....	Chicago, Ill. ....	Columbus
26. Coquillard Wagon Works....	Henderson, Ky. ....	Coquillard
27. Davenport Wagon Co.....	Davenport, Ia. ....	Davenport
28. Davis Wagon Co.....	Columbus, Ga. ....	Davis
29. Donaldson Bros. ....	Mt. Clemens, Mich.....	Donaldson
30. Electric Wheel Co.....	Quincy, Ill. ....	Electric
31. Fish Bros. Mfg. Co.....	Clinton, Ia... Fish Bros., La Belle	
32. Fish Bros. Wagon Co.....	Racine, Wis.....	Fish Bros.
33. Flint Wagon Works.....	Flint, Mich. ....	Flint
34. Florence Wagon Works.....	Florence, Ala. ....	Florence
35. Forbes Mfg. Co.....	Hopkinsville, Ky. ....	Mogul
36. Fort Smith Wagon Co.....	Fort Smith, Ark.....	Fort Smith
37. Fuller & Johnson Mfg. Co....	Madison, Wis... Madison, Fuller & Johnson, Badger	
38. Geo. S. Garth & Co.....	Millhall, Pa. ....	Garth
39. Grand Detour Wagon Co....	Dixon, Ill. ....	Grand Detour
40. Harrison Wagon Co.....	Grand Rapids, Mich.....	Harrison
41. Huntingburg Wagon Wks....	Huntingburg, Ind. ...	Huntingburg
42. Indiana Wagon Co.....	Lafayette, Ind....	Indiana, O'Brien
43. Ionia Wagon Co.....	Ionia, Mich.....	Capital, Bibble
44. James & Graham Wagon Co..	Memphis, Tenn....	James & Graham
45. Karges Wagon Co.....	Evansville, Ind. ....	Karges
46. Keller Mfg. Co.....	Corydon, Ind. ....	Corydon
47. Keller Mfg. Co.....	Sauk Center, Minn.....	Keller
48. Kentucky Wagon Mfg. Co....	Louisville, Ky... Tennessee, Kentucky, Old Kentucky	

## FARM WAGONS—Continued.

Name.	Address.	Trade name.
49. King & Hamilton Co.....	Ottawa, Ill. ....	Ottawa
50. Kramer Wagon Co.....	Oil City, Pa. ....	Kramer
51. Lang & Bro. Mfg. & Merc. Co..	Farmington, Mo. ....	Lang
52. Lansing Wagon Works.....	Lansing, Mich. ....	Lansing
53. Lenhart Wagon Co.....	Minneapolis, Minn. ....	Lenhart
54. Lindsey Wagon Co., Inc.....	Laurell, Miss. ....	Lindsey
55. Linstroth Wagon Co.....	St. Louis, Mo. ....	Linstroth
56. Look & Lincoln.....	Marion, Va. ....	Look & Lincoln
57. Luedinghaus-Espenschied Wagon Co. ....	St. Louis, Mo.....	Luedinghaus
58. McCallum Steel Wagon Co....	Plymouth, Ind. ....	McCallum
59. F. MacKinnon Mfg. Co.....	Grand Rapids, Wis....	MacKinnon
60. Madisonville Wagon Co.....	Madisonville, Ky. ....	Madisonville
61. Mandt Wagon Co.....	Stoughton, Wis. ....	Mandt
62. Miller Wagon Co.....	Edina, Mo. ....	Miller
63. Mitchell & Lewis Co., Ltd....	Racine, Wis. ....	Mitchell
64. Moline Wagon Co.....	Moline, Ill.....	New Moline
65. Neal, Johns & Co.....	Lake City, Minn.....	Lake City
66. New Conklin Wagon Co.....	Olean, N. Y.....	New Conklin
67. Newton Wagon Co.....	Batavia, Ill. ....	Newton
68. C. F. Nissen.....	Winston Salem, N. C....	J. I. Nissen
69. Geo. E. Nissen & Co.....	Winston Salem, N. C....	Nissen
70. Northwestern Mfg. Co.....	Fort Atkinson, Wis....	Northwestern
71. O'Brien Wagon Works.....	Shenandoah, Ia. ....	O'Brien
72. Ohio Valley Wagon Co.....	Marietta, Ohio ....	Marietta
73. Olds Wagon Works.....	Fort Wayne, Ind. ....	Olds
74. Orchard City Wagon Co.....	Burlington, Ia.....	Orchard City
75. Owensboro Wagon Co.....	Owensboro, Ky. ....	Owensboro
76. Painter & Frankland.....	Albion, Ill....	Painter & Frankland
77. Patterson & Brown Bros. Mfg. Company . ....	Holly, Mich. ....	Holly
78. Peoria Wagon Co.....	Peoria, Ill. ....	Peoria
79. Peru Plow & Wheel Co.....	Peru, Ill. ....	(not given)
80. Piedmont Wagon Co.....	Hickory, N. C.....	Piedmont
81. Racine-Sattley Co. ....	Racine, Wis. ....	Racine
82. Randolph Wagon Wks.....	Randolph, Wis. ....	Randolph
83. Samuel H. Rhoades.....	Anderson, Ind. ....	Rhoades
84. L. O. Rud & Co.....	Lansing, Ia. ....	Rud
85. Schmidt & Stork.....	West Bend, Wis.....	West Bend
86. Schreiber Carriage Mfg. Co...	Chariton, Ia. ....	Schreiber
87. F. W. Schuergenber.....	Brenham, Tex. ....	Schuergenber
88. Schuttler & Hotz.....	Chicago, Ill. ....	Schuttler
89. Eugene Sheer .....	Lincoln, Ill. ....	Sheer
90. T. & H. Smith & Co.....	Pekin, Ill. ....	Smith
91. Smith Mfg. Co.....	La Crosse, Wis.....	La Crosse
92. Springfield Wagon Co.....	Springfield, Mo.....	Springfield
93. Stoughton Wagon Co.....	Stoughton, Wis. ....	Stoughton
94. A. Streich & Bro. Co.....	Oshkosh, Wis. ....	Streich
95. Studebaker Bros. Mfg. Co....	South Bend, Ind.....	Studebaker
96. Swab Wagon Co.....	Elizabethville, Pa. ....	Swab
97. Thomas Wagon Co.....	Vernon, N. Y.....	Thomas

**FARM WAGONS—Continued.**

Name.	Address.	Trade name.
98. Thornhill Wagon Co.....	Lynchburg, Va. ....	Thornhill
99. Tiffin Wagon Co.....	Tiffin, Ohio .....	Tiffin
100. Troy Wagon Works.....	Troy, Ohio .....	Troy
101. Turnbull Wagon Co.....	Defiance, Ohio .....	Turnbull
102. Joel Turney & Co.....	Fairfield, Ia. ....	Charter Oak
103. O. C. Vaughn Mfg. Co.....	Jefferson, Wis. ....	Jefferson
104. Weber Wagon Co.....	Chicago, Ill.....	Weber, Columbus
105. White Hickory Wagon Mfg. Company .....	Atlanta, Ga.....	White Hickory
106. Williams Bros. ....	Ithaca, N. Y.....	Ithaca
107. Winona Wagon Co.....	Winona, Minn...	Rushford, Winona

**List of Manufacturers of Following Lines Competing With the International Harvester Company.**

**GRAIN BINDERS.**

Name.	Address.	Trade name.
1. Acme Harvester Co.....	Peoria, Ill. ....	Hodges, Queen
2. Adriance, Platt & Co.....	Poughkeepsie, N. Y.....	Adriance
3. Farmers' Co-Operative Har- vesting Machine Co.....	Springfield, O....	Farmers' Co-Op.
4. Johnston Harvester Co.....	Batavia, N. Y.....	Continental & Bonnie
5. Keystone Co. ....	Sterling, Ill. ....	Keystone
6. Seiberling & Miller Co.....	Doylestown, O. ....	Empire
7. Walter A. Wood Mowing & Reaping Machine Co.....	Hoosick Falls, N. Y..	New Century

**CORN HARVESTERS AND BINDERS.**

1. Adriance, Platt & Co.....	Poughkeepsie, N. Y.....	Adriance
2. H. L. Bennett & Co.....	Westerville, O....	Bennett's Corn Harv.
3. Blue Valley Mfg. Co.....	Manhattan, Kas...	Blue Valley Im- proved Corn Harv.
4. Clipper Plow Co.....	Defiance, Ohio..	Defiance Corn Harv.
5. Dain Mfg. Co.....	Ottumwa, Ia. ....	Dain's
6. Farmers' Co-Operative Har- vesting Machine Co.....	Springfield, O....	Farmers' Co-Op.
7. Foss Manufacturing Co.....	Springfield, O...	Scientific & Buck- eye Corn Harvester.
8. Johnston Harvester Co.....	Batavia, N. Y.....	Johnston
9. Kellogg Harvester Co.....	Plano, Ill. ....	Kellogg
10. Neer Manufacturing Co.....	St. Paris, O....	Neer Corn Harv.
11. New Process Mfg. Co.....	Lincoln, Kas..	Ziegler's Corn Harv.
12. Standard Harrow Co.....	Utica, N. Y...	Standard & Monarch Corn Harvester
13. Walter A. Wood Mowing & Reaping Machine Co.....	Hoosick Falls, N. Y..	New Century

## CORN HARVESTERS AND BINDERS—Continued.

Name.	Address.	Trade name.
14. Wellbourn Bros. ....	Brookville, O. ....	Magie City Corn Harv.
15. Western Mfg. Co. ....	Kansas City, Mo. ....	Western

## HEADERS AND COMBINED HARVESTERS.

1. Acme Harvester Co. ....	Peoria, Ill. ....	Hodges, Craver & Randolph, Hd. Harvester King Header Bd.
2. Best Mfg. Co. ....	San Leandro, Cal. ....	Best Combined Harv.
3. Holt Mfg. Co. ....	Stockton, Cal. ....	Holt Bros. Comb. Harv.
4. Houser & Haines Mfg. Co. ....	Stockton, Cal. ....	H. & H. Combined Harv.
5. Johnston Harvester Co. ....	Batavia, N. Y. ....	Johnston Continental, Johnston Combined

## REAPERS.

1. Acme Harvester Co. ....	Peoria, Ill. ....	Hodges
2. Adrianee, Platt & Co. ....	Poughkeepsie, N. Y. ....	Adrianee
3. Farmers' Co-Operative Har-vesting Machine Co. ....	Springfield, O. ....	Farmers' Co-Op.
4. Johnston Harvester Co. ....	Batavia, N. Y. ....	Continental
5. Seiberling & Miller Co. ....	Doylestown, O. ....	Empire
6. Geo. Sweet Mfg. Co. ....	Dansville, N. Y. ....	Royce
7. Walter A. Wood Mowing & Reaping Machine Co. ....	Hoosick Falls, N. Y. ....	New Century

## MOWERS.

1. Acme Harvester Co. ....	Peoria, Ill. ....	Hodges, Queen
2. Adrianee, Platt & Co. ....	Poughkeepsie, N. Y. ....	Adrianee
3. American Harvester Co. ....	Moline, Ill. ....	American
4. Dain Mfg. Co. ....	Ottumwa, Ia. ....	Dain
5. Emerson Mfg. Co. ....	Rockford, Ill. ....	Standard Emerson New Standard Emerson
6. Eureka Mower Co. ....	Utica, N. Y. ....	Eureka
7. Farmers' Co-Operative Har-vesting Machine Co. ....	Springfield, O. ....	Farmers' Co-Op.
8. Janesville Machine Co. ....	Janesville, Wis. ....	Crown
9. Johnston Harvester Co. ....	Batavia, N. Y. ....	Continental
10. Keystone Co. ....	Sterling, Ill. ....	Keystone
11. Messinger Mfg. Co. ....	Tatamy, Pa. ....	Empire
12. Richardson Mfg. Co. ....	Worcester, Mass. ....	Worcester, Buckeye
13. Rockford Mfg. Co. ....	Rockford, Ill. ....	Imperial
14. Rochester Agricultural Works. ....	Rochester, N. Y. ....	Meadow Lark
15. Seiberling & Miller Co. ....	Doylestown, O. ....	Empire
16. Geo. Sweet Mfg. Co. ....	Dansville, N. Y. ....	Advance
17. Walter A. Wood Mowing & Reaping Machine Co. ....	Hoosick Falls, N. Y. ....	New Century

## HUSKERS AND SHREDDERS.

Name.	Address.	Trade name.
1. Advance Thresher Co.....	Battle Creek, Mich.....	Advance
2. Appleton Mfg. Co.....	Batavia, Ill. ....	Appleton
3. J. I. Case Threshing Machine Company .....	Racine, Wis. ....	Case
4. Corn King Husker Co.....	Rochester, Ind. ....	Corn King
5. Deere & Mansur Co.....	Moline, Ill. ....	Deere
6. Double Power Mill Co.....	Appleton, Wis. ....	Armsaver Huske
7. Janney Mfg. Co.....	Ottumwa, Ia. ....	Janney
8. Keystone Co. ....	Sterling, Ill. ....	Keystone
9. Kolling Husker & Shredder Works. ....	Arlington Heights, Ill.....	Kolling
10. Milwaukee Hay Tool Co.....	Milwaukee, Wis. ....	Milwaukee
11. Ohio Cultivator Co.....	Bellevue, Ohio ....	Goodhue
12. Port Huron Engine & Thresher Company .....	Port Huron, Mich.....	Port Huron
13. Parsons Band Cutter & Self- Feeder Co. ....	Newton, Iowa ....	Success
14. Rosenthal Corn Husker Co....	Milwaukee, Wis. ....	Rosenthal
15. Safety Shredder Co.....	New Castle, Ind.....	Safety
16. A. W. Stevens Co.....	Marinette, Wis..	Stevens Big Four
17. Taylor Husker & Shredder Co.	Joliet, Ill. ....	Taylor
18. W. H. Van Schaick.....	Walworth, Wis. ....	Gem

## CORN PICKERS.

Taylor Husker & Shredder Co....	Joliet, Ill. ....	Taylor
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## HAY RAKES.

Horse (Sulky) and Hand Dump. Revolving and Side Delivery.		
1. Aeme Harvester Co.....	Peoria, Ill. ....	Hodges
2. Adriance, Platt & Co.....	Poughkeepsie, N. Y.....	Adriance
3. Ames Plow Co.....	Boston, Mass. ....	American
4. Belcher & Taylor Agricultural Tool Co. ....	Chicopee Falls, Mass.....	Nye
5. David Bradley Mfg. Co.....	Bradley, Ill. ....	Queen
6. Chambers, Boring, Quinlan & Company. ....	Decatur, Ill..	Chambers, Boring & Quinlan Side Delivery
7. Chapenville Wheel Co.....	Poughkeepsie, N. Y..	New Yorker
8. Clipper Chilled Plow Co.....	Elmira, N. Y.....	Clipper
9. Deere & Mansur Co.....	Moline, Ill....	New Deere & Deere
10. H. P. Dauscher Co.....	Hamilton, Ohio.....	Lone Star & Master
11. Emerson Mfg. Co.....	Rockford, Ill..	Emerson, Standard, Champion, Soudow, Hollingsworth, Champion, Gem.
12. Farmers' Co-Operative Har- vesting Machine Co.....	Springfield, O....	Farmers' Co-Op.
13. Fleming & Sons Mfg. Co.....	Huntsville, Mo. ....	Fleming

## HAY RAKES—Continued.

Name.	Address.	Trade name.
14. Fuller & Johnson Mfg. Co....	Madison, Wis....	Fuller & Johnson
15. Gale Mfg. Co.....	Albion, Mich. ....	Albion Champion
16. Hocking Valley Mfg. Co.....	Lancaster, O. ....	Hocking Valley, Hollingsworth, Hollingsworth Champion
17. Hayes Pump & Planter Co....	Galva, Ill. ....	Sucker State
18. Johnston Harvester Co.....	Batavia, N. Y. ....	Johnston
19. Keystone Co. ....	Sterling, Ill. ....	Keystone
20. Long & Allstatter Co.....	Hamilton, Ohio ....	Hamilton
21. Messinger Mfg. Co.....	Tatamy, Pa. ....	Empire
22. Ohio Rake Co.....	Dayton, Ohio. ....	Hollingsworth & Quail, Bob White, Revolving
23. Patten & Stoddard.....	Canastota, N. Y....	N. Y. Champion
24. Richardson Mfg. Co.....	Worcester, Mass.....	Worcester, Buckeye
25. Rockford Mfg. Co.....	Rockford, Ill. ....	Ellwood
26. Risedorph Agricultural Works.	Albany, N. Y. ....	Risedorph
27. J. S. Rosell Mfg. Co.....	Beaver Dam, Wis.....	Rowell
28. Geo. E. Robison .....	Locke, N. Y.....	Robison
29. Sandwich Mfg. Co.....	Sandwich, Ill. ....	Sandwich
30. Sterling Mfg. Co.....	Sterling, Ill. ....	Sterling
31. Stoddard Mfg. Co.....	Dayton, Ohio .....	Tiger
32. Thomas Mfg. Co.....	Springfield, O. ....	Thomas
33. J. Thompson & Sons Mfg. Co..	Beloit, Wis.....	Beloit, Champion
34. Wayne Works .....	Richmond, Ind..	Richmond, Champion, Revolving
35. Wiard Plow Co.....	Batavia, N. Y.....	Emperor
36. Williams Bros. ....	Ithaca, N. Y.....	Ithaca
37. Walter A. Wood Mowing & Reaping Machine Co.....	Hoosick Falls, N. Y....	Walter A. Wood
38. Dain Mfg. Co.....	Ottumwa, Ia. ....	Dain's
39. Hughes & Smythe.....	Galena, Ohio..	Galena (Revolving)
40. Implement Mfg. Co.....	Marion, Ohio....	Huber (Revolving)
41. Reed & Rogers Mfg. Co.....	Vernon, Ind..	Surprise (Revolving)

## HAY TEDDERS.

1. Ames Plow Co.....	Boston, Mass..	Garfield's American
2. Ann Arbor Machine Co.....	Ann Arbor, Mich.....	Advance
3. Belcher & Taylor Agricultural Tool Co. ....	Chicopee Falls, Mass..	Bullard, Mudbett, Belcher & Taylor.
4. Berres-Gehl Mfg. Co.....	West Bend, Wis.....	Berres-Gehl
5. R. R. Howell & Co.....	Minneapolis, Minn. ....	Champion
6. Hocking Valley Mfg. Co.....	Lancaster, O. ....	Hocking Valley



## HAY TEDDERS—Continued.

Name.	Address.	Trade name.
7. Johnston Harvester Co.....	Batavia, N. Y.....	Continental
8. Messinger Mfg. Co.....	Tatamy, Pa. ....	Empire
9. Mountville Mfg. Co.....	Mountville, Pa. ....	Peerless
10. Neer Mfg. Co.....	St. Paris, O.....	Blue
11. Ohio Rake Co.....	Dayton, O.....	Monarch & Quail
12. Richardson Mfg. Co.....	Worcester, Mass. ....	Bullard
13. Sterling Mfg. Co.....	Sterling, Ill. ....	Sterling
14. Stoddard Mfg. Co.....	Dayton, O. ....	Tiger
15. Thomas Mfg. ....	Springfield, O. ....	Thomas
16. Walter A. Wood Mowing and Reaping Machine Co.....	Hoosick Falls, N. Y....	New Century

## SWEEP HAY RAKES.

1. Acme Harvester Co.....	Peoria, Ill. ....	Hodges
2. Thomas K. Barley.....	Sedalia, Mo....	Boss, Katy & Jumbo
3. Chariton Iron Works.....	Chariton, Ia. ....	Columbian
4. E. Children's Sons Mfg. Co...	Council Bluffs, Ia...	New Meadow, Rancher, Success.
5. Dain Mfg. Co.....	Ottumwa, Ia..	Dain's New Idea, Dain's Power Lift, Dain's Pipe Axle.
6. Eclipse Hay Press Co.....	Kansas City, Mo.....	Eclipse
7. Farm Tool Mfg. Co.....	Carrollton, Mo....	Advance, Favorite and American.
8. Foster & Williams Mfg. Co....	Racine, Jen., Wis.....	Foster
9. Fleming & Sons Mfg. Co....	Huntsville, Mo. ....	Fleming
10. Grand Detour Plow Co.....	Dixon, Ill. ....	Grand Detour
11. Hay Tool Mfg. Co.....	Council Bluffs, Ia.....	Iowa
12. Byron Jackson Machine Works.	San Francisco, Cal.....	Jackson
13. Jenkins Hay Rake and Stacker Company . ....	Browning, Mo. ....	Jenkins
14. Kansas City Hay Press Co....	Kansas City, Mo....	Champion & Lightning.
15. Midland Mfg. Co.....	Tarkio, Mo. ....	Midland
16. Plattner Imp. Co.....	Denver, Colo. ....	Plattner
17. Scott Hay Press Co.....	Kansas City, Mo.....	O. K.
18. Superior Haystacker Mfg. Co..	Linneus, Mo. ....	Superior
19. Waterloo Threshing Machine Company . ....	Waterloo, Ia. ....	Waterloo
20. Western Machine Co.....	Albia, Ia. ....	Chieftain
21. Western Mfg. Co.....	Kansas City, Mo.....	K. C.
22. Walker Mfg. Co.....	Council Bluffs, Ia.....	Walker

## HAY STACKERS.

1. Acme Harvester Co.....	Peoria, Ill....	Acme & Hodges No. 2
2. Thos. K. Barley.....	Sedalia, Mo. ....	Lark & Giant
3. Chariton Iron Works.....	Chariton, Ia.....	Columbian

## HAY STACKERS—Continued.

Name.	Address.	Trade name.
4. E. Children's Sons Mfg. Co....	Council Bluffs, Ia...	New Meadow, Queen.
5. Dain Mfg. Co.....	Ottumwa, Ia. ....	Dain
6. Eclipse Hay Press Co.....	Kansas City, Mo.....	Eclipse
7. Farmers' Co-Operative Har- vesting Machine Co.....	Springfield, O. . .	Farmers' Co-Op., American,
8. Farm Tool Mfg. Co.....	Carrollton, Mo....	New Century, 20th Century.
9. Fleming & Sons Mfg. Co.....	Huntsville, Mo. ....	Fleming
10. Hay Tool Mfg. Co.....	Council Bluffs, Ia.....	Iowa
11. Byron Jackson Machine Works.	San Francisco, Cal.....	Jackson
12. Jenkins Hay Rake & Stacker Company . . . . .	Browning, Mo. ....	
13. Kansas City Hay Press Co....	Kansas City, Mo....	Champion & Lightning
14. Midland Mfg. Co.....	Tarkio, Mo. ....	Midland
15. Plattner Imp. Co.....	Denver, Colo. ....	Plattner
16. Scott Hay Press Co.....	Kansas City, Mo.....	O. K.
17. Superior Hay Stacker Mfg. Co.	Linneus, Mo. ....	Superior
18. Staleup Hay Stacker Co.....	Unionville, Mo. ....	Staleup
19. Waterloo Threshing Machine Company . . . . .	Waterloo, Ia. ....	Waterloo
20. Western Machine Co.....	Albia, Ia..	Chieftain and Improved Chieftain
21. Walker Mfg. Co.....	Council Bluffs, Ia.....	Lever Lift

## CLOVER BUNCHERS.

1. American Buncher Mfg. Co...	Indianapolis, Ind....	American and Prairie
2. F. Blocki Co.....	Sheboygan, Wis.....	Blocki
3. Side Delivery Buncher Co....	Toledo, O.....	Side Delivery
4. Farmers' Co-Op. Harv. Mach. Co. . . . .	Springfield, O.....	Farmers' Co-Op.

## KNIFE AND TOOL GRINDERS.

1. Acme Harvester Co.....	Peoria, Ill.....	Hodges
2. Ajax Mfg. Co.....	Pittsburg, Pa.....	Vulcan
3. Chicago Wheel & Mfg. Co....	Chicago, Ill.....	Crown
4. S. Cheney & Son.....	Manlius, N. Y.....	Fowler
5. Cutaway Harrow Co.....	Higganum, Conn.....	Dutton
6. R. Herschel Mfg. Co.....	Peoria, Ill.....	Herschel, New Model
7. Leavitt Machine Co.....	Orange, Mass.....	Perfection
8. C. J. Luther Co.....	Pt. Washington, Wis.	Bolen's Giant and Western
9. Luther Bros. . . . .	Milwaukee, Wis...	Bi-Pedal, Chal- lenge and Badger

## KNIFE AND TOOL GRINDERS—Continued.

Name.	Address.	Trade Name
10. Miessner Bros. & Co.....	Huntingsburg, Ind.....	World's
11. Schofield & Co.....	Freeport, Ill. ....	Climax
12. Western Imp. Co.....	Pt. Washington, Wis..	Western and Hill
13. Walter A. Wood, M. & R. Ma- chine Co. ....	Hoosick Falls, N. Y.....	Paragon

## CREAM EXTRACTORS (Not Centrifugal).

1. Aquatic Cream Separators....	Rochester, N. Y.....	Aquatic
2. W. F. Hunt Cream Separator Co. ....	Newark, N. Y.....	Hunt
3. Lawrence-Bastwick Mfg. Co....	Phelps, N. Y.....	Star
4. Lawrence Mfg. Co.....	Toledo, Ohio.....	Star, Frost King, Frost Queen
5. Ohio Cream Separator Co.....	Bluffton, O. ....	Ohio
6. Superior Fence Machine Co..	Detroit, Mich.....	Merritt, Superior
7. Wheeler Gravity Cream Separ- ator Co. ....	Syracuse, N. Y.....	Wheeler

## CENTRIFUGAL.

8. American Hardware Mfg. Co..	Ottawa, Ill.....	Illinois Dairy
9. American Separator Co.....	Brainbridge, N. Y.....	American
10. D. H. Burrell & Co.....	Little Falls, N. Y.....	Simplex
11. Dairy Queen Mfg. Co.....	Flora, Ind.....	Dairy Queen
12. Davis Cream Separator Co....	Chicago, Ill. ....	
13. De Loyal Separator Co.....	New York, N. Y....	Acme, Alpha, Baby, Daisy, Humming Bird Standard
14. Empire Cream Separator Co...	Bloomfield, N. J.....	Empire
15. International Cream Separator Co. ....	Lancaster, Pa. ....	International
16. Iowa Dairy Separator Co....	Waterloo, Ia.....	Iowa Dairy
17. National Dairy Machine Co...	Newark, N. Y.....	National
18. Omega Separator Co.....	Lansing, Mich. ....	Omega
19. Papee Machine Co.....	Lima, N. Y.....	Papee
20. A. H. Reid Cream & Dairy Sup- ply Co. ....	Philadelphia, Pa. ....	Reid
21. Sharples Separator Co.....	West Chester, Pa.....	Sharples
22. Valley Wind Engine & Iron Co. Limited. ....	Bay City, Mich.....	Springer
23. Vermont Farm Machine Co...	Bellows Falls Vt.....	U. S.
24. Waterloo Cream Separator Co.	Waterloo, Ia. ....	Peerless

## HAY AND BALING PRESSES.

Name.	Address.	Trade name.
1. Admiral Hay Press Co.....	Kansas City, Mo.....	Admiral
2. Ann Arbor Machine Co.....	Ann Arbor, Mich.....	Columbia
3. Auto-Fedan Hay Press Co....	Topeka, Kans. ....	Auto-Fedan
4. David Bradley Mfg. Co.....	Bradley, Ill. ....	Bradley
5. Chattanooga Imp. & Mfg. Co.	East Chattanooga, Tenn.....	Chattanooga
6. Collins Plow Co.....	Quincy, Ill.....	Eli, Noxall Jumbo, Eli, Jr.
7. Dain Mfg. Co.....	Ottumwa, Ia.....	Dain
8. P. K. Dederick's Sons.....	Albany, N. Y..	Dederick, Farmers' Dederick, Columbian
9. De Loach Mill Mfg. Co.....	Atlanta, Ga.....	Big Four
10. Eagle Mfg. Co.....	Kansas City, Mo.....	Eagle
11. Eclipse Hay Press Co.....	Kansas City, Mo.....	Eclipse
12. Geo. Ertel Co.....	Quincy, Ill.....	Victor, Economy, Gem
13. Famous Mfg. Co.....	East Chicago, Ind..	Champion, Giant, Champ. Champion Common Sense
14. D. B. Hendricks & Co.....	Kingston, N. Y.....	Hendricks
15. C. J. Hyde.....	Meridian, Mass..	Emmons, Gregory
16. International Mfg. Co.....	Omaha, Neb.....	Elk
17. Kinnard-Haines Co. ....	Minneapolis, Minn.....	Flour City
18. Kansas City Hay Press Co....	Kansas City, Mo..	Lightning, Lightning, Jr.
19. Kemp's Mfg. Co.....	Kankakee, Ill.....	Kemp
20. Little Giant Hay Press Co....	Dallas, Tex.....	Simplex
21. F. X. Mauver Co.....	Spencer, Ia.....	Mauvers
22. Mead Hay Press Co.....	Pueblo, Colo. ....	Mead
23. Midland Mfg. Co.....	Tarkio, Mo. ....	Midland
24. New Winona Mfg. Co.....	Winona, Minn..	Diamond Hay King
25. Ohio Mfg. Co.....	Upper Sandusky, O.....	Ohio
26. Ohio Cultivator Co.....	Bellevue, O.....	Ohio
27. Orion Hay Press Co.....	Orion, Ill.....	Uncle Tom
28. Parsons Band Cutter & Self Feeder Co. ....	Newton, Ia.....	Buffalo
29. J. E. Porter Co.....	Ottawa, Ill.....	Porter
30. Port Huron Engine & Thresher Co. ....	Port Huron, Mich.....	Mead
31. Roanoke Iron & Wood Wks..	Chattanooga, Tenn.....	Copeland
32. Robinson & Co.....	Richmond, Ind..	Robinson's Single Robinson's Duplex
33. Reed Mfg. Co.....	Kalamazoo, Mich.....	Simplex
34. Sikes Mfg. Co.....	Helena, Ga.....	Red Ripper
35. Sandwich Mfg. Co.....	Sandwich, Ill..	American New Way Southwick, Western
36. Scott Hay Press Co.....	Kansas City, Mo.....	O. K. X. L.
37. Southern Plow Co.....	Columbus, Ga.....	Reliance

## HAY AND BALING PRESSES—Continued.

Name.	Address.	Trade name.
38. J. A. Spencer.....	Dwight, Ill....	Spencer's Alligator Spencer's Hercules Spencer's Perpetual
39. H. N. Strait Mfg. Co.....	Kansas City, Kan.....	National
40. Waterloo Threshing Meh. Co..	Waterloo, Ia. ....	Cascaden
41. Weston Steel & Wire Co.....	Kansas City, Mo....	New Century
42. Whitman Agricultural Co.....	St. Louis, Mo..	Invincible, Emperor Steel King, Colonial Eclipse, Ajax, Steel Beauty, Universal.
43. Williams Buggy Co.....	Macon, Ga.....	Rapid Fire
44. Woodruff Hdw. Co.....	Winder, Ga. ....	Woodruff

## ENGINES, GASOLINE.

1. Abenague Machine Wks.....	Westminister, Vt.....	Abenague
2. Advance Mfg. Co.....	Hamilton, Ohio. ....	Hamilton
3. Air-Cooled Motor Co.....	Lansing, Mich. ....	Air-Cooled
4. Almo Mfg. Co.....	Hillsdale, Mich.....	Almo
5. American Well Works.....	Aurora, Ill. ....	American
6. Alma Mfg. Co.....	Alma, Mich. ....	McVicker
7. Carl Anderson Co.....	Chicago, Ill. ....	"Gus"
8. Anderson Tool Co.....	Anderson, Ind. ....	Anderson
9. Angola Engine & Foundry Co.	Angola, Ind. ....	Angola
10. G. W. Arnold's Son.....	Ionia, Mich. ....	Arnolds
11. Ashurst Press Drill Co.....	Havana, Ill. ....	Havana
12. Atlas Motor Co.....	Indianapolis, Ind.....	Atlas
13. Bauroth Bros. ....	Springfield, Ohio. ....	Bauroth
14. Borden & Selleck Co.....	Chicago, Ill. ....	Howe
15. Boynton Scale & Pump Co....	Toledo, Ia. ....	Old Colony
16. Beilfuss Motor Co.....	Lansing, Mich. ....	Beilfuss
17. Brown-Cochrane Co.....	Lorain, Ohio. ....	Brown
18. Chas. Brunner. ....	Peru, Ill. ....	Brunner
19. Baker Mfg. Co.....	Evansville, Ind. ....	Little Baker
20. Buckeye Engine & Foundry Co.	Joliet, Ill. ....	Buckeye
21. Bates & Edmonds Motor Co...	Lansing, Mich. ....	Bates
22. Beaver Mfg. Co.....	Milwaukee, Wis. ....	Beaver
23. W. P. Callahan & Co.....	Dayton, Ohio ....	Callahan
24. Caldwell Vapor Cooled Eng. Co. ....	Chicago, Ill. ....	Caldwell
25. Canfield Gasoline Engine Wks.	Binghampton, N. Y.....	Canfield
26. Cedar Rapids Foundry & Machine Co. ....	Cedar Rapids, Ia....	Cedar Rapids
27. Capital Gas Engine Co.....	Indianapolis, Ind.....	Capital
28. Central City Iron Works....	Stevens Point, Wis.....	Model
29. Cushman Motor Co.....	Lincoln, Neb. ....	Cushman
30. Challenge Wind Mill & Feed Mill Co. ....	Batavia, N. Y.....	Challenge
31. Chapman Portable Forge & Engine Works. ....	Marcellus, Mich. ....	Chapman
32. Charter Gas Engine Co.....	Sterling, Ill.....	Sterling

## ENGINES, GASOLINE—Continued.

Name.	Address.	Trade name.
33. Chicago Water Motor & Fan Co. . . . .	Chicago, Ill. . . . .	Backus
34. O. L. Collins & Co. . . . .	St. Louis, Mo. . . . .	Sinning
35. Columbia Machine Co. . . . .	Columbus, O. . . . .	Columbus
36. Church Mfg. Co. . . . .	Adrian, Mich. . . . .	Church
37. Cook Mfg. Co. . . . .	Albion, Mich. . . . .	Cook
38. Dean-Waterman Co. . . . .	Covington, Ky. . . . .	Dean
39. Des Moines Gas Engine & Electric Co. . . . .	Des Moines, Ia. . . . .	Standard
40. C. H. A. Dissinger & Bro. . . . .	Wrightsville, Pa. . . . .	Capital
41. Dempster Mill Mfg. Co. . . . .	Beatrice, Nebr. . . . .	Dempster
42. A. M. Duncan. . . . .	Green Bay, Wis. . . . .	Olson
43. Domestic Eng. & Pump Co. . . . .	Shippingsburg, Pa. . . . .	Domestic
44. Duplex Mfg. Co. (Station B) . . . . .	Superior, Wis. . . . .	Duplex
45. Enterprise Machine Co. . . . .	Minneapolis, Minn. . . . .	Westman, Westman's Busy Bee
46. East Davenport Mach. & Novelty Wks. . . . .	Davenport, Ia. . . . .	Kuhner
47. Field Force Pump Co. . . . .	Elmira, N. Y. . . . .	Elmira
48. Field-Brundage Co. . . . .	Jackson, Mich. . . . .	Field
49. Famous Mfg. Co. . . . .	East Chicago, Ind. . . . .	Champion
50. Flinchbough Mfg. Co. . . . .	York, Pennsylvania. . . . .	York
51. Foos Gas Engine Co. . . . .	Springfield, O. . . . .	Foos
52. Foos Mfg. Co. . . . .	Springfield, O. . . . .	Scientific
53. Ft. Wayne Foundry & Mach. Co. . . . .	Fort Wayne, Ind. . . . .	Wayne
54. Fort Scott, Mfg. Co. . . . .	Fort Scott, Kas. . . . .	Scott
55. Friend Mfg. Co. . . . .	Gasport, N. Y. . . . .	Friend
56. Fuller & Johnson Mfg. Co. . . . .	Madison, Wis. . . . .	Fuller & Johnson
57. Gade Bros. Mfg. Co. . . . .	Iowa Falls, Ia. . . . .	Hawkeye
58. Geiser Mfg. Co. . . . .	Waynesboro, Pa. . . . .	Geiser
59. Gemmer Engine Co. . . . .	Marion, Ind. . . . .	Gemmer
60. Gilbon Mfg. Co. . . . .	Ft. Washington, Wis. . . . .	Gilson
61. Globe Iron Works Co. . . . .	Menominee, Wis. . . . .	White
62. Greendale Gas Engine Co. . . . .	Worcester, Mass. . . . .	Greendale
63. Hart-Parr Co. . . . .	Charles City, Ia. . . . .	Hart Parr
64. Holiday Mfg. & Engineering Co. . . . .	Chicago, Ill. . . . .	Holiday
65. Industrial Iron Works. . . . .	Clinton, Ia. . . . .	Missouri
66. Iowa Gasoline Engine Co. . . . .	Waterloo, Ia. . . . .	Iowa
67. Byron Jackson Mach. Wks. . . . .	San Francisco, Cal. . . . .	Jackson
68. Kansas City Hay Press Co. . . . .	Kansas City, Mo. . . . .	Lightning
69. O. S. Kelley Western Mfg. Co. . . . .	Iowa City. . . . .	Kelley Simplex
70. Kinnard-Haines Co. . . . .	Minneapolis, Minn. . . . .	Flour City
71. Lambert Gas & Gasoline Engine Co. . . . .	Anderson, Ind. . . . .	Lambert
72. C. P. & J. Lanson. . . . .	Milwaukee, Wis. . . . .	Badger
73. John Lanson Mfg. Co. . . . .	New Holstein, Wis. . . . .	Lanson
74. A. A. Lazier. . . . .	Buffalo, N. Y. . . . .	Lazier
75. Leader Gas Engine Co. . . . .	Dayton, Ohio. . . . .	Leader



## ENGINES, GASOLINE—Continued.

Name.	Address.	Trade name.
76. Lennox Mach. Co.....	Marshalltown, Ia. . . . .	Lennox
77. Lyons Engine Co.....	Lyons, Mich. . . . .	Lion
78. Hugh Mathews. . . . .	Kansas City, Mo. . . . .	Mathews-Davis
79. McCadden Mach. Works.....	St. Cloud, Minn. . . . .	McCadden
80. Maud S. Wind Mill & Pump Co.	Lansing, Mich. . . . .	Ideal
81. Middletown Mach Co.....	Middletown, O. . . . .	Woodpecker
82. Model Gas Engine Works.....	Auburn, Ind. . . . .	Model
83. Moline Pump Co.....	Moline, Ill. . . . .	Eli
84. Muncie Gas Engine & Supply Co. . . . .	Munice, Ind. . . . .	Angelaize
85. National Engineering Co.....	Saginaw, Mich. . . . .	Michigan Five Horse, National, Jr.
86. North Star Mfg. Co.....	Minneapolis, Minn. . . . .	Underwood
87. National Engine Co.....	Rockford, Ill. . . . .	National
88. The "New Way" Motor Co....	Lansing, Mich. . . . .	New Way
89. New Era Gas Engine Co.....	Dayton, Ohio. . . . .	Little Giant
90. New Jersey Agricultural Wks.	Trenton, N. J. . . . .	Butterworth
91. Olds Gasoline Engine Works..	Lansing, Mich. . . . .	Olds
92. Olin Gas Engine Co.....	Buffalo, N. Y. . . . .	Olin
93. Otto Gas Engine Works.....	Philadelphia, Pa. . . . .	Otto
94. Pease Engine & Machine Wks.	Goshen, Ind. . . . .	Pease
95. Peerless Motor Co.....	Lansing, Mich. . . . .	Peerless
96. Perkins Wind Mill Co.....	Mishawaka, Ind. . . . .	Perkins
97. Geo. D. Pohl Mfg. Co.....	Vernon, N. Y. . . . .	Advance
98. Reeves Bros. . . . .	Columbus, Ohio. . . . .	Reeves
99. Regal Gasoline Engine Co....	Coldwater, Mich. . . . .	Regal
100. Reliable Machine Co.....	Anderson, Ind. . . . .	Reliable
101. Reliance Iron & Engine Co..	Racine, Wis. . . . .	"Sta-Kite"
102. Rockford Engine Works Co..	Rockford, Ill. . . . .	Rockford
103. Root & Van DeVoort Engi- neering Co. . . . .	East Moline, Ill. . . . .	R. & V.
104. St. Marys Mach Co.....	St. Marys, O. . . . .	St. Marys
105. A. E. Shorthill Co.....	Marshalltown, Ia. . . . .	Marshall
106. Charles A. Stickney Co.....	St. Paul, Minn. . . . .	Stickney
107. Charles Sinning Mach. Wks..	St. Louis, Mo. . . . .	Sinning
108. Spade Engine Co.....	Vicksburg, Mich. . . . .	Spade
109. Stoddard Mfg. Co.....	Rutland, Vt. . . . .	Stoddard
110. Stover Engine Works.....	Freeport, Ill. . . . .	Stover
111. John Stroben. . . . .	Davenport, Ia. . . . .	Stroben
112. Strang Engine Co.....	Chicago, Ill. . . . .	Strang
113. Temple Pump Co.....	Chicago, Ill. . . . .	Master Workman
114. J. Thompson & Sons Mfg. Co.	Beloit, Wis. . . . .	Lewis
115. Underwood Mach. Wks.....	Minneapolis, Minn. . . . .	Underwood
116. H. H. Wabors Mfg. Co.....	Racine, Wis. . . . .	Racine
117. Waterloo Gasoline Eng. Co..	Waterloo, Ia. . . . .	Waterloo
118. Waterloo Motor Works.....	Waterloo, Ia. . . . .	Davis
119. Frank M. Watkins Mfg. Co..	Cincinnati, O. . . . .	Watkins
120. Weber Gas & Gasoline Eng. Co. . . . .	Kansas City, Mo. . . . .	Weber, Weber, Jr.

## ENGINES, GASOLINE—Continued.

Name.	Address.	Trade name.
121. Western Mall. & Grey Iron Mfg. Co. . . . .	Milwaukee, Wis. . . . .	Simplicity
122. Westinghouse Co. . . . .	Schenectady, N. Y. . . . .	Westinghouse
123. Willmar Gasoline Eng. Wks. . . . .	Willmar, Minn. . . . .	Willmar
124. Witte Iron Works Co. . . . .	Kansas City, Mo. . . . .	Witte, Witte, Jr.
125. Wogaman Mfg. Co. . . . .	Greenville, O. . . . .	Wogaman
126. Woolley Foundry & Mach. Wks. . . . .	Anderson, Ind. . . . .	Burger Automatic

## MANURE SPREADERS.

- American Harrow Co. . . . . Detroit, Mich. . . . . New American
- Appleton Mfg. Co. . . . . Batavia, Ill. . . . . Appleton
- Cedar Rapids Imp. Works. . . . . Cedar Rapids, Ia. . . . . Up-to-date
- Cortland Imp. Co. . . . . Cortland, N. Y. . . . . Advance
- Kemp Burpee Mfg. Co. . . . . Syracuse, N. Y. . . . . Kemp
- J. S. Kemp Mfg. Co. . . . . Waterloo, Ia. . . . . Twentieth Century
- J. S. Kemp Mfg. Co. . . . . Newark Valley, N. Y. . . . . Twentieth Century
- Litchfield Mfg. Co. . . . . Waterloo, Ia. . . . . Litchfield
- Newark Machine Co. . . . . Newark, Ohio. . . . . Miller
- New Idea Spreader Co. . . . . Maria Stein, O. . . . . Acme, New Idea, Superior
- Richardson Mfg. Co. . . . . Worcester, Mass. . . . . Worcester-Kemp
- E. W. Ross Co. . . . . Springfield, O. . . . . Ross
- Smith Mfg. Co. . . . . Chicago, Ill. . . . . Great Western
- Standard Harrow Co. . . . . Utica, N. Y. . . . . Standard

## CORN PLANTERS.

- Ames Plain Co. . . . . Boston, Mass. . . . . Billings, Star and Star Billings
- Avery Mfg. Co. . . . . Peoria, Ill. . . . . Corn King, Corn Queen
- Belcher & Taylor Agricultural Tool Co. . . . . Chicopee Falls, Mass. . . . . Eclipse, King of the Corn Field
- David Bradley Mfg. Co. . . . . Bradley, Ill. . . . . Bradley, La Criolla Colorado and La Portena
- Cardwell Machine Co. . . . . Richmond, Va. . . . . Cardwell, Eureka
- J. I. Case Plow Works. . . . . Racine, Wis. . . . . Case Edge Drop
- Chambers, Bering, Quinlan Co. . . . . Decatur, Ill. . . . . U. S. Junior, U. S. Steel & Decatur
- Deere & Mansur Co. . . . . Moline, Ill. . . . . Deere, New Deere
- H. P. Denscher Co. . . . . Hamilton, Ohio. . . . . Hamilton Ideal
- Emerson Mfg. Co. . . . . Rockford, Ill. . . . . Emerson
- Eureka Mower Co. . . . . Utica, N. Y. . . . . Eureka
- Fuller & Johnson Mfg. Co. . . . . Madison, Wis. . . . . Fuller & Johnson, Victor
- A. B. Farquhar Co. Ltd. . . . . York, Pa. . . . . Farquhar, Key-Stone

## CORN PLANTERS—Continued.

Name.	Address.	Trade name.
14. Gale Mfg. Co.....	Albion, Mich....	Daisy, Sure Drop
15. Hench & Dromgold Co.....	York, Pa.....	Hench & Dromgold
16. Hayes Pump & Planter Co....	Galva, Ill....	Eclipse, Hayes Junior
17. Hoosier Drill Co. Division....	Richmond, Ind.....	Hoosier
18. Janesville Machine Co.....	Janesville, Wis.....	Janesville
19. Janney Mfg. Co.....	Otiumwa, Ia.....	Common Sense
20. Keystone Co. ....	Sterling, Ill.....	Keystone
21. Kingman Plow Co.....	Peoria, Ill. ....	Kingman
22. Moline Plow Co.....	Moline, Ill....	Crackerjack, On Time Eastern Threeinone, Gret- chen, Moline Champion, Play Ball, Champion Threeinone, West- ern Champion.
23. Mulford Heater Co.....	Galva, Ill.....	Boyd
24. McSherry Mfg. Co.....	Middletown, Ohio. . . . .	McSherry
25. Ohio Rake Co.....	Dayton, Ohio...	Bob White, Bull's Eye, Union Victor
26. Parlin & Orendorff Co.....	Canton, Ill....	Canton Junior, Canton Senior Diamond, Mexican Senior, Parlin.
27. Peru Plow & Wheel Co.....	Peru, Ill. . . . .	Conde, Luthy, Peru
28. Peters Pump Co.....	Kewanee, Ill.....	Peters Peter's Kewanee
29. J. E. Porter Co.....	Ottawa, Ill. ....	Porter
30. Quincy Corn Planter Co.....	Quincy, Ill.....	Barlow, Vandiver Barlow
31. Racine-Sattley Co. ....	Springfield, Ill.....	Sattley
32. Rhea Thielen Imp. Co.....	Peoria, Ill. ....	Corn Belt
33. Rock Island Plow Co.....	Rock Island, Ill....	Balance Frame Cadet, Rock Island.
34. D. M. Sechler Carriage Co.....	Moline, Ill. ....	Black Hawk
35. Sterling Mfg. Co.....	Sterling, Ill.....	Sterling
36. Stoddard Mfg. Co.....	Dayton, Ohio.....	Tiger
37. Edward Sillers. . . . .	Oak Hall, Pa.....	Electric
38. Spangler Mfg. Co.....	York, Pa. ....	Spangler
39. Standard Harrow Co.....	Utica, N. Y.....	Standard
40. Superior Drill Co., Division..	Springfield, O. . . . .	Evans
41. J. Thompson & Sons Mfg. Co..	Beloit, Wis. ....	New Century
42. Wayne Works. . . . .	Richmond, Ind. ....	Richmond Champion
43. Wistrand Mfg. Co.....	Galva, Ill. ....	Blue Star
44. S. R. White & Bro.....	Norfolk, Va.....	Whites Centennial

## CULTIVATORS, RIDING AND TWO ROW.

Name.	Address.	Trade name.
1. Akron Cultivator Co.....	Akron, Ohio ....	Krans, Krans, Jr.
2. J. M. Albright & Son.....	Mifflinsburg, Pa. ....	Albright
3. S. L. Allen & Co.....	Philadelphia, Pa. ....	Planet, Jr.
4. American Harrow Co.....	Detroit, Mich.	American, American Special American, Jr.
5. American Plow Co.....	Madison, Wis. ....	American
6. B. F. Avery & Son.....	Louisville, Ky..	Comet, New South, Revolution, West- ern
7. Avery Mfg. Co.....	Peoria, Ill.....	Newago Vacuna
8. Bateman Mfg. Co.....	Grenloch, N. J.....	Iron Age
9. E. Bement's Sons.....	Lansing, Mich..	King Bee, Queen Bee, Bement, Be- ment Peerless Be- ment Texas
10. Henry F. Blount.....	Evansville, Ind.	Blounts' True Blue
11. David Bradley Mfg. Co.....	Bradley, Ill.....	Bradley Vulcan, Hurrah, J. H. B. Klondike, Klond- dike, Jr., Stem Winder.
12. Brown-Manly Plow Co.....	Malta, Ohio....	Jubilee Maltonian, New Malta, Premier
13. Brown Mfg. Co.....	Zanesville, O...	New Brown, New Century, Brown, Common Sense, Cohn Handy Brown, Texas, New Brown
14. J. I. Case Plow Works.....	Racine, Wis....	Eclipse, Farmer, Texas Case, Texas Case Jr., Idea, Nome.
15. E. Children's Sons Mfg. Co...	Council Bluffs, Ia...	New Badger, Twin Badger
16. Clipper Plow Co.....	Defiance, O. ....	Clipper
17. Collings Plow Co.....	Quincy, Ill....	Illanoy, Iowa, New Iowa
18. Deere & Co.....	Moline, Ill.....	Deere, Deere World, New Elk, New Elk., Jr., Royal
19. Dempster Mill Mfg. Co.....	Beatrice, Nebr. ....	Dempster
20. H. P. Deuscher Co.....	Hamilton, O. ....	Ideal
21. Eagle Mfg. Co.....	Kansas City, Mo..	Eagle Hammock Golden Eagle, Red Eagle, Badger
22. Emerson Mfg. Co.....	Rockford.....	Emerson, Emerson Standard
23. A. B. Farquhar Co., Ltd.....	York, Pa. ....	Pennsylvania

## CULTIVATORS, RIDING AND TWO ROW—Continued.

Name.	Address.	Trade name.
24. Fuller & Johnson Mfg. Co.....	Madison, Wis...	Universal, Ham- mock King, Bon- anza, Fuller & Johnson Hammock King, Superior
25. Gale Mfg. Co.....	Albion, Mich...	Albion, Balance All, Empress, Gale Korn King, New Schofield, Schofield.
26. Grand Detour Plow Co.....	Dixon, Ill—	Corker, Dodger, Grand Detour, Gem, Nachusa, Yankee Doodle, Yankee Girl.
27. Hartman Mfg. Co.....	Vincennes, Ind..	Farmer's Delight, New Acme.
28. Hayes Pump & Planter Co....	Galva, Ill..	Czar, Duke, Hayes, Com- bined, Hayes Ham- mock, Hero, Rex Ham- mock, Sampson.
29. Hench & Dromgold Co.....	York, Pa..	Henches Improved, Henches Jr., Henches Twentieth Century.
30. Janesville Mach Co.....	Janesville, Wis..	Bobolink, Bower City, Clipper.
31. Keystone Farm Machine Co...	York, Pa.....	Keystone, Keystone Steel Age.
32. King & Hamilton Co.....	Ottawa, Ill.....	Little Boy
33. Kingman Plow Co.....	Peoria, Ill....	Combined, Sr., Com- bined Jr., Southern Combined Ham- mock Jr., Ham- mock Sr., Kingman Jr., Kingman, Sr.
34. LaCrosse Plow Co.....	LaCrosse, Wis....	Boss, Conqueror, Corn Maker, Shallow Cut, Sunshine.
35. Roderick Lean Mfg. Co.....	Mansfield, O.....	Roderick Lean, Roderick Lean National.
36. Lehr Agricultural Co.....	Fremont, O.....	Hobs, Lehr, New Fremont.
37. Long & Allstatter Co.....	Hamilton, O.....	Hamilton
38. P. P. Mast & Co.....	Springfield, O...	Buckeye, Easy Buckeye, Handy Buckeye.
39. Midland Mfg. Co.....	Tarkio, Mo.....	Midland
40. Mishawaka Plow Co.....	Mishawaka, Ind. ....	Indiana

## CULTIVATORS, RIDING AND TWO ROW—Continued.

Name.	Address.	Trade name.
41. Moline Plow Co.....	Moline, Ill.	Dutch Uncle, Best Yet, Corn Dodger, Dandy, Texas Dandy, Dutch Twins.
42. Morrison Mfg. Co.....	Ft. Madison, Ia.	Ft. Madison, Mor- rison's Surface, New Iowa, New Morrison, Ping Pong, Premi- um, New Century.
43. National Drill Co.....	Cambridge City, Ind.	National
44. Ohio Cultivator Co.....	Bellevue, O.	Famous Ohio
45. Ohio Rake Co.....	Dayton, O.	Hammock King, Mon- arch, Quail.
46. Parlin & Orendorff Co.....	Canton, Ill.	Invincible, Jewel, Victor, Jr.
47. Pattee Plow Co.....	Monmouth, Ill.	Busy Bee, Fast Mail Pattee.
48. Pekin Plow Co.....	Pekin, Ill.	Centerfield, Pekin Umpire.
49. Peru Plow & Wheel Co.....	Peru, Ill.	Peru, Royal, Western King.
50. Racine-Sattley Co. ....	Springfield, Ill.	Noxall, Sangamon, Prince.
51. Reed Mfg. Co.....	Kalamazoo, Mich.	Reed
52. Rhea-Thielens Imp. Co.....	Rockford, Ill.	Thompson
54. Rockford Mfg. Co.....	Rockford, Ill.	Axtell, Dewey, Tiger.
55. Rockford Well Drill Co.....	Rockford, Ill.	Tiger
56. Rock Island Plow Co.....	Rock Island, Ill.	Autoerat, Bully Boy, Dictator, Ideal, Lone Star, Mascot, Peacock, At- wood, Veteran
57. Ruas, Mills & Co.....	Doylestown, Pa.	New Age
58. I. B. Rowell Co.....	Menominee Falls, Minn.	Rowell
59. J. S. Rowell Mfg. Co.....	Beaver Dam, Wis.	Rowell
60. Rude Bros. Mfg. Co.....	Liberty, Ind.	Front Rank, Little Darling.
61. St. Joseph Plow Co.....	St. Joseph, Mo.	St. Joseph
62. D. M. Sechler Carriage Co....	Moline, Ill.	Black Hawk
63. Matt Shew .....	Cambridge City, Ind.	Shew
64. So. Bend Chilled Plow Co....	South Bend, Ind.	Challenge
65. Standard Harrow Co.....	Utica, N. Y.	Diamond, Favorite, Standard.
66. Stoddard Mfg. Co.....	Dayton, O.	Tiger
67. J. Thompson & Sons Mfg. Co..	Beloit, Wis.	Monarch, Norwegian, O. K., Thompson's Hammock.
68. J. D. Tower & Sons Co.....	Mendota, Ill.	Tower Surface
69. Van Brunt Mfg. Co.....	Horicon, Wis.	Van Brunt



## DRILLS (SHOE, HOE AND DISK).

Name.	Address.	Trade name.
1. American Drill Co.....	Springfield, O. ....	American
2. Bickford & Huffman Co., (Division) .....	Macedon, N. Y. ....	Farmers' Favorite
3. Cassopolis Mfg. Co.....	Cassopolis, Mich. ....	Cassopolis
4. Crown Mfg. Co.....	Phelps, N. Y. ....	Crown
5. Chambers, Bering, Quinlan Co..	Decatur, Ill. ....	Little Giant, Haworth.
6. Champion Drill Co.....	Avon, N. Y. ....	Champion
7. E. Children's Sons Mfg. Co....	Council Bluffs, Ia. ....	Hawkeye
8. Dempster Mill Mfg. Co.....	Beatrice, Nebr. ....	Dempster, New Era.
9. Dowagiac Mfg. Co.....	Dowagiac, Mich. ....	Dowagiac
10. Empire Drill Co., Division....	Shortsville, N. Y. ....	Empire
11. A. B. Farquhar Co., Ltd.....	York, Pa. ....	Pennsylvania
12. Fuller Mfg. Co.....	East Moline, Ill. ....	Fuller Lee
13. P. M. Gundlach.....	Belleville, Ill. ....	Gundlach
14. Genesee Valley Mfg. Co.....	Mt. Morris, N. Y. ....	Missouri
15. Geiser Mfg. Co.....	Waynesboro, Pa. ....	Greencastle
16. Hayes Pump & Planter Co....	Galva, Ill. ....	Sucker State
17. Hench & Dromgold Co.....	York, Pa. ....	York
18. Hoosier Drill Co., Division....	Richmond, Ind. ....	Hoosier
19. Kentucky Drill Co., Division..	Louisville, Ky. ....	Kentucky
20. King Drill Mfg. Co.....	Nebraska City, Neb. ....	King
21. LaCrosse Plow Co.....	La Crosse, Wis. ....	La Crosse
22. Roderick Lean Mfg. Co.....	Mansfield, O. ....	Roderick Lean
23. McSherry Mfg. Co.....	Middletown, O. ....	Columbia, Me- Sherry, Dutch Lady.
24. P. P. Mast & Co.....	Springfield, O. ....	Buckeye, Foun- tain City.
25. Monitor Drill Co.....	Minneapolis, Minn. ....	Monitor
26. National Drill Co.....	Cambridge City, Ind. ....	National
27. Ontario Drill Co.....	Despatch, N. Y. ....	Ontario
28. Owatonna Mfg. Co.....	Owatonna, Minn. ....	Owatonna
29. Peoria Drill & Seeder Co.....	Peoria, Ill. ....	Peoria, Western Illi- nois, Peoria Glen- dale, Peoria, Union.
30. Poirier Mfg. Co.....	Gladstone, Minn. ....	Poirier
31. J. S. Rowell Mfg. Co.....	Beaver Dam, Wis. ....	Tiger
32. Rude Bros. Mfg. Co.....	Liberty, Ind. ....	Indiana
33. Spangler Mfg. Co.....	York, Pa. ....	Spangler
34. Spring Grain Drill Mfg. Co....	Peru, Ind. ....	Spring
35. Stoddard Mfg. Co.....	Dayton, Ohio ...	Triumph, Havana
36. Superior Drill Co., Division....	Springfield, O. ....	Superior
37. Thomas Mfg. Co.....	Springfield, O. ....	Thomas
38. Van Brunt Mfg. Co.....	Horicon, Wis. ....	Van Brunt, Rich- mond Jr.
39. Wayne Works .....	Richmond, Ind. ....	Richmond, Champion
40. Western Mfg. Co.....	Kansas City, Mo. ....	W. A. Lee

## HARROWS (DISK).

Name.	Address.	Trade name.
1. American Horrow Co.....	Detroit, Mich. ....	New American
2. American Plow Co.....	Madison, Wis. ....	American
3. B. F. Avery & Son.....	Louisville, Ky....	Avery's Tornado, Avery's Eureka
4. Belcher & Taylor Agrl. Tool Co.	Chicopee Falls, Mass.....	Yankee
5. E. Bement's Sons .....	Lansing, Mich....	Michigan, Lansing, Jr., Anderson
6. David Bradley Mfg. Co.....	Bradley, Ill.....	Ideal, Bradley, Jr.
7. Bryan Plow Co.....	Bryan, Ohio .....	Bryan
8. Bucher & Gibbs Plow Co.....	Canton, Ohio....	Imperial, Perfect, Imperial.
9. J. I. Case Plow Works.....	Racine, Wis. ....	J. I. Case
10. Chapinville Wheel Co.....	Poughkeepsie, N. Y....	New Yorker
11. Cutaway Harrow Co.....	Higganum, Conn..	Clarks, Clarks Cutaway, West- ern Cutaway, Great Western, Cutaway
12. M. H. Daley.....	Charles City, Ia.....	Delay
13. Deere & Mansur Co.....	Moline, Ill..	Deere, Deere Jr., Deere Model B, Deere Uni- versal California
14. H. P. Deuseher Co.....	Hamilton, Ohio .....	Hamilton
15. Eagle Mfg. Co.....	Kansas City, Mo.....	Eagle
16. Emerson Mfg. Co.....	Rockford, Ill. . .	Emerson, Sandow
17. Evans Mfg. Co.....	Hammond, N. Y..	Evans, Thompson
18. A. B. Farquhar Co., Ltd.....	York, Pa. ....	Pennsylvania
19. Fuller & Johnson Mfg. Co....	Madison, Wis. ....	Monitor
20. Gale Mfg. Co.....	Albion, Mich. ....	Albion, Gale
21. Grand Detour Plow Co.....	Dixon, Ill. ....	Grand Detour, New Grand Detour
23. Hayes Pump & Planter Co....	Galva, Ill. ....	Sucker State
24. Houser & Haines Mfg. Co....	Stockton, Cal....	Houser & Haines
25. Janesville Machine Co.....	Janesville, Wis..	Budlong, Janes- ville, Janesville Van Dyke
26. Johnston Harvester Co.....	Batavia, N. Y.....	Johnston Con- tinental
27. Keystone Cot .....	Sterling, Ill. ....	Keystone
28. Kingman Plow Co.....	Peoria, Ill. ....	Kingman
29. La Crosse Plow Co.....	La Crosse, Wis..	La Crosse, Bulldog
30. Roderick Lean Mfg. Co.....	Mansfield, O.....	Roderick Lean
31. Lehr Agricultural Co.....	Fremont, O. ....	Lehr
32. Long Allstatter Co.....	Hamilton, O. ....	Hamilton
33. McSherry Mfg. Co.....	Middletown, O....	Pioneer, Spear Head, Excello
34. Moline Plow Co.....	Moline, Ill. ....	Economy, Moline
35. Morrison Mfg. Co.....	Ft. Madison, Ia.....	Morrison
36. Ohio Cultivator Co.....	Bellevue, O....	Ohio, Bellevue, Co- lumbia, Star

## HARROWS (DISK)—Continued.

Name.	Address.	Trade name.
37. Ohio Mfg. Co.....	Upper Sandusky, O.....	Ohio
38. Ohio Rake Co.....	Dayton, Ohio..	Bell, Monarch Safety, Dandy, Atlanta, Dayton
39. Parlin & Orendorff Co.....	Canton, Ill. ....	Canton
40. Pekin Plow Co.....	Pekin, Ill. ....	Pekin
41. Peru Plow & Wheel Co.....	Peru, Ill. ....	Peru
42. Racine Sattley Co.....	Springfield, Ill. ....	Governor
43. Rockford Mfg. Co.....	Rockford, Ill....	Rockdor, Western
44. Rock Island Plow Co.....	Rock Island, Ill....	Little Bonanza, Bonanza, Defiance
45. St. Joseph Plow Co.....	St. Joseph, Mo.....	St. Joseph
46. H. C. Shaw Co.....	Stockton, Cal. ....	Stockton
47. Standard Harrow Co.....	Utica, N. Y....	Standard Model B, Standard
48. Sterling Mfg. Co.....	Sterling, Ill..	Hero, Standard, New Standard
49. Stoddard Mfg. Co.....	Dayton, Ohio ....	Tiger
50. Superior Drill Co., Div.....	Springfield, Ohio ....	Superior
51. Syracuse Chilled Plow Co....	Syracuse, N. Y.....	Syracuse
52. Thomas Mfg. Co.....	Springfield, Ohio ....	Thomas, Southern
53. J. Thompson & Sons Mfg. Co..	Beloit, Wis. ....	Eclipse
54. Toledo Plow Co.....	Toledo, Ohio ....	Toledo
55. Wiard Plow Co.....	Batavia, N. Y.....	Wiard, Star

## SEEDERS.

1. Appleton Mfg. Co.....	Batavia, Ill. ....	Badger
2. David Bradley Mfg. Co.....	Bradley, Ill. ....	Bradley, Jr.
3. Deere & Mansur Co.....	Moline, Ill....	New Deere, Deere, Moline
4. H. P. Deuscher Co.....	Hamilton, Ohio ....	Hamilton
5. Dowagiac Mfg. Co. ....	Dowagiac, Mich. ....	Dowagiac
6. Emerson Mfg. Co.....	Rockford, Ill. ....	Sandow
7. A. B. Farquhar Co., Ltd.....	York, Pa. ....	Farquhar
8. Hoosier Drill Co., Division....	Richmond, Ind. ....	Hoosier
9. Janesville Machine Co.....	Janesville, Wis....	New Leader, Prairie City
10. Johnston Harvester Co.....	Batavia, N. Y....	Johnston Continental
11. Keystone Co.....	Sterling, Ill. ....	Keystone
12. Kingman Plow Co.....	Peoria, Ill. ....	Kingman
13. LaCrosse Plow Co.....	La Cross, Wis. ....	Monarch
14. McSherry Mfg. Co.....	Middletown, Ohio ....	McSherry
15. P. P. Mast & Co.....	Springfield, Ohio..	Buckeye, Fountain City
16. Monitor Drill Co.....	Minneapolis, Minn. ....	Monitor
17. Ohio Cultivator Co.....	Bellevue, Ohio ....	Bellevue
18. Owatonna Mfg. Co.....	Owatonna, Minn. ....	Owatonna

## SEEDERS—Continued.

Name.	Address.	Trade name.
19. Ohio Rake Co.....	Dayton, Ohio .....	Ohio
20. Peoria Drill & Seeder Co.....	Peoria, Ill. ....	Columbia
21. Parlin & Orendorff.....	Canton, Ill. ....	Canton
22. Rockford Well Drill Co.....	Rockford, Ill. ...	Genuine, Gorman
23. Rock Island Plow Co.....	Rock Island, Ill..	Defiance, Bonanza
24. J. S. Rowell Mfg. Co.....	Beaver Dam, Wis.....	Tiger
25. Sterling Mfg. Co.....	Sterling, Ill. ....	Sterling
26. Stoddard Mfg. Co.....	Dayton, Ohio .....	Triumph
27. J. Thompson & Sons Mfg. Co..	Beloit, Wis.....	Beloit, Gorman
28. Van Brunt Mfg. Co.....	Horicon, W.s. ....	Van Brunt
29. Wayne Works .....	Richmond, Ind.....	Richmond, Champion

## HARROW—PEG TOOTH.

1. Adriance, Platt & Co.....	Poughkeepsie, N. Y.....	Adriance
2. American Plow Co.....	Madison, Wis. ....	American
3. Atlanta Agricultural Wks....	Atlanta, Ga. ....	Atlanta
4. B. F. Avery & Sons.....	Louisville, Ky. ....	Avery
5. E. Bement's Sons.....	Lansing, Mich. ....	Bement
6. Benicia Iron Works.....	Bemocoea, Cal. ....	Bemocoea
7. Blaine Harrow Mfg. Co.....	Piqua, Ohio .....	Blaine
8. David Bradley Mfg. Co.....	Bradley, Ill. ....	Bradley
9. Brown Manly Plow Co.....	Malta, Ohio .....	Columbian
10. Brown Mfg. Co.....	Zanesville, Ohio .....	Brown
11. Bucher & Gibbs Plow Co.....	Canton, Ohio...Zig Zag	Imperial, Imperial
12. J. I. Case Plow Works.....	Racine, Wis. ....	Critic
13. Clipper Chilled Plow Co.....	Elmira, N. Y.....	Straits
14. Collins Plow Co.....	Quincy, Ill. ....	Quincy
15. M. H. Daley.....	Charles City, Ia.....	Daley
16. Deere & Co.....	Moline, Ill..Ajax, Deere Universal, Deere	
17. H. P. Deuser Co.....	Hamilton, Ohio .....	Hamilton
18. Donaldson Bros. ....	Mt. Clemens, Mich.....	Donaldson
19. Eagle Mfg. Co.....	Kansas City, Mo. ....	Eagle
20. Emerson Mfg. Co.....	Rockford, Ill. ....	Emerson
21. Empire Plow Co.....	Cleveland, O. ....	Empire
22. Fuller & Johnson Mfg. Co....	Madison, Wis....	Fuller & Johnson
23. Gale Mfg. Co.....	Albion, Mich. ....	Gale
24. Grand Detour Plow Co.....	Dixon, Ill. ....	Grand Detour
25. Hayes Pump & Planter Co....	Galva, Ill. ....	Hayes
26. W. S. Hazen .....	Ripon, Wis. ....	Hazen
27. Hench & Dromgold Co.....	York, Pa.....	Hench & Dromgold
28. Houser & Haines Mfg. Co....	Stockton, Cal....	Houser & Haines
29. Gilbert Hunt Co.....	Walla Walla, Wash...	Jackson, Com- mon Sense
30. Janesville Machine Co.....	Janesville, Wis. ....	Janesville
31. Johnson & Smith Co.....	Albert Lea, Minn....	Everlasting
32. J. S. Johnson.....	Waukon, Ia. ....	Johnson
33. Keystone Farm Mach. Co.....	York, Pa. ....	Keystone

## HARROW—PEG TOOTH—Continued.

Name.	Address.	Trade name.
34. Kingman Plow Co.....	Peoria, Ill. ....	Kingman
35. La Crosse Plow Co.....	La Crosse, Wis.....	La Crosse
36. Law Mfg. Co.....	St. Paul, Minn. (Merriam Park).	Ware's
37. Roderick Lean Mfg. Co.....	Mansfield, Ohio....	Roderick Lean
38. Lehr Agricultural Co.....	Fremont, Ohio .....	Lehr
39. McGowan & Finegan Foundry & Machine Co.....	St. Louis, Mo.....	M. & F.
40. Minneapolis Plow Works.....	Minneapolis, Minn. ....	Monitor
41. Moline Plow Co.....	Moline, Ill. ....	Moline
42. Morrison Mfg. Co.....	Ft. Madison, Ia....	Morrison, New Morrison
43. Ohio Cultivator Co.....	Bellevue, Ohio .....	Ohio
44. Ohio Rake Co.....	Dayton, Ohio.....	Quail, Dayton
45. Parlin & Orendorff Co.....	Canton, Ill. ....	Canton, Favorite
46. Pekin Plow Co.....	Pekin, Ill. ....	Pekin
47. Peoria Drill & Seeder Co.....	Peoria, Ill. ....	Glendale
48. Peru Plow & Wheel Co.....	Peru, Ill. ....	Peru
49. Racine Sattley Co.....	Springfield, Ill. ....	Sattley
50. Rhea Thielens Imp. Co.....	Peoria, Ill. ....	Oscillator
51. Rockford Mfg. Co.....	Rockford, Ill. ....	Rockford
52. Rock Island Plow Co.....	Rock Island, Ill.....	Rock Island
53. St. Jos. Plow Co.....	St. Joseph, Mo.....	St. Joseph
54. So. Bend Chilled Plow Co.....	So. Bend, Ind.....	South Bend
55. Sparta Plow Works.....	Sparta, Ill. ....	Sparta
56. Standard Harrow Co.....	Utica, N. Y. ....	Standard U. Bar, Standard Zig Zag Crescent
57. Star Mfg. Co.....	Carpentersville, Ill. ....	Star
58. Sterling Mfg. Co.....	Sterling, Ill. ....	Sterling
59. Syracuse Chilled Plow Co.....	Syracuse, N. Y.....	Syracuse
60. J. Thompson & Sons Mfg. Co..	Beloit, Wis. ....	Champion
61. Toledo Plow Co.....	Toledo, Ohio .....	Toledo
62. A. T. Zilisch.....	Mayville, Wis. ....	Zilisch

## HARROWS, SPRING TOOTH (STEEL AND WOOD FRAMES).

1. Adriance Platte & Co.....	Poughkeepsie, N. Y.....	Adriance
2. Babcock Mfg. Co.....	Leonardsville, N. Y.....	Atsego
3. E. Bements Sons.....	Lansing, Mich.....	Empire, Clippe Lansing
4. Bucher & Gibbs Plow Co., Ltd..	Canton, Ohio .....	Imperial
5. Clipper Chilled Plow Co.....	Elmira, N. Y. ....	Straits, One Horse Clipper
6. Central Imp. Co.....	Lansing, Mich. ....	
7. Davison Harrow Co.....	Utica, N. Y.....	Davison, Perry
8. Donaldson Bros. ....	Mt. Clemens, Mich.....	Donaldson
9. A. B. Farquhar Co., Ltd.....	York, Pa. ....	Pennsylvania Farquhar, Perry Albion, Galle
11. Greenville Imp. Co.....	Greenville, Mich. ....	Manner
12. Hartford Plow Works.....	Hartford, Wis. ....	Hartford

## HARROWS, SPRING TOOTH (STEEL &amp; WOOD FRAMES)—Cont'd.

Name.	Address.	Trade name.
13. Hench & Dramgold Co.....	York, Pa.....	Hench & Dramgold, Our Perry
14. Heebner & Sons.....	Lansdale, Pa. ....	Heebner
15. Howland Mfg. Co.....	Pontiac, Mich. ....	Pontiac
16. Johnston Harvester Co.....	Batavia, N. Y.....	Johnston Perry
17. Kalamazoo Tank & Silo Co....	Kalamazoo, Mich. ....	Kalamazoo
18. Keystone Farm Machine Co...	York, Pa. ....	Keystone
19. Roderick Lean Mfg. Co.....	Mansfield, Ohio ...	Roderick Lean
20. Lehr Agricultural Co.....	Fremont, Ohio ....	Lehr
21. F. C. Merrill.....	South Paris, Mo.....	Dirigo
22. Ohio Rake Co.....	Dayton, Ohio.....	Quail, Advance
23. Patten & Stafford.....	Canastota, N. Y..	Spangler, New York Champion
24. Standard Harrow Co.....	Utica, N. Y..	Aberdeen, Aberdeen Jr., Badger, Badger One Horse, Horse Shoe, New Reed, Old Original Perry T. & H. Tiger, Reed
25. Syracuse Chilled Plow Co....	Syracuse, N. Y.....	Syracuse
26. Thomas Mfg. Co.....	Springfield, O. ....	Thomas
27. Toledo Plow Co.....	Toledo, Ohio ....	Toledo

Hon. Herbert S. Hadley, counsel for the Informant:

Q. Who prepared this list, Mr. McCormick? A. It was prepared in the office of the company by the general manager, and the sub agents in the business.

Q. Do you know who actually prepared it? A. I don't know the name of the man.

Q. Do you know where he got the information from which he used in preparing it? A. Yes, sir; he sent it around to the trade in general and made inquiries for the information in the regular way, as to how many inquiries he sent out I could not tell.

Q. You don't know who he asked? A. He asked every one.

Q. Or what information the people had that furnished him information? A. No, sir; it was one of those inquiries in the trade.

Q. What do you mean by the trade? A. We sent letters in various directions to find out the names of the manufacturers in certain lines of goods. As I understand it this collection, it is unknown to me, he wrote letters to the retail dealers in different parts of the United States, he went and searched for manufacturers and listed them and found out what they were making. He got a list of manufacturers.

Q. Where did he get his list of manufacturers? A. He got in the regular course of information.

Q. What would be the regular course of information? A. Trade lists of all kinds.



Q. Where did he get the trade lists and prepare them? A. That is a matter of easy access in the harvesting business if you want to find out the manufacturer of gasoline engines he might write to a manufacturer of gasoline engines, where he lives and ask them to give you the name and, etc.

Q. Who did that, some unknown clerk? A. The four or five men, I presume it was under the direction of the General Manager's office.

Q. That is your understanding? A. Yes, sir.

Q. Who vouched for the accuracy of this list of manufacturers? A. I could not tell you that.

Q. This is simply a compilation, the source of accuracy of which you cannot tell? A. No, sir; I cannot, no personal knowledge of it.

Q. You do not say that the names of the persons given here ever sold goods in the State of Missouri? A. No, sir; I do not say so.

Hon. Herbert S. Hadley, counsel for the Informant:

I do not think the exhibit is worth much.

Commissioner: Your questions indicate the value of it.

Hon. Herbert S. Hadley, counsel for informant:

With that understanding, I have no objections to it.

Examination of witness resumed by Selden P. Spencer, counsel for Respondent:

A. I see there are 42 manufacturers of drills. I cannot guarantee every name on that list as known to me personally. I would like to say that I have no doubt that every man on that list is a bona fide name of some manufacturer, it was not prepared by some incompetent person who took the names of defunct concerns, it was carefully prepared in our office.

HON. SELDEN P. SPENCER, counsel for Respondent:

Now gentlemen, I will introduce as an exhibit what I handed to you yesterday as Exhibit "B" so as to save time as to the payment of the stock of the International Harvester Company.

Commissioner: Have you a copy of that, General?

By Hon. Herbert S. Hadley: Yes, sir.

Hon. Herbert S. Hadley, counsel for informant:

Of course there are statements about Mr. Lane having bought these companies, after having sold them to the International, and their real meaning is shown by the examination. I don't know whether I should go over that again.

Commissioner: I think it is unnecessary.

Hon. Herbert S. Hadley, counsel for informant:

The statements here are to be understood as connected with the explanation you have heretofore given? A. Yes, sir.

Q. And as to the method, how the International of New Jersey has organized, and what the stock issued by that company is paid for, and the consideration? A. Yes, sir.

Q. And the statements as to the property deeded to Mr. Lane must be understood with the explanation, you have heretofore given in which you described him as the financial medium? A. Yes, sir.

Selden P. Spencer, counsel for Respondent:

I now offer in evidence Exhibit "B." Same being in words and figures as follows, to wit:

"EXHIBIT B."

CAPITAL STOCK FULLY PAID—WORKING CAPITAL AND APPRAISALS.

Of the total capital stock of \$120,000,000.00, there was subscribed and paid for in cash for working capital, \$60,000,000.00, leaving \$60,000,000.00 with which to pay for all the tangible properties embraced in the five contracts with Lane and all expenses of organization of every character. The Milwaukee assets, having been bought and paid for in cash by the Morgan interests, were sold to Lane for the price paid, which, with the amount required for organization expenses and attorney's fees, amounted to \$6,600,000.00, leaving available for the payment of the tangible properties of the Champion, Deering, McCormick and Plano Companies only, \$53,400,000.00; total, \$120,000,000.00.

The original appraisements of the tangible properties of these last four companies, exclusive of patents and good will, was \$64,076,229.65. Add value of patents and good will, as determined by accountants, \$20,853,548.11. Total original appraised valuation of the four properties, \$84,929,777.76.

Afterwards, in order to obtain a final and speedy agreement as to the relative values of all these four properties, another arbitrator was agreed upon to fix a new valuation upon the basis of which the said \$53,400,000 of stock should be immediately distributed. The independent appraisers finally fixed the value of these four properties at \$76,452,546.48. The vendors of these four properties thus appraised received, therefore, only their proportion shares of the remaining \$53,400,000 of stock in payment for the \$76,452,546.48 worth of property which they turned over to William C. Lane, or only about 70 per cent. of the actual fair appraisal of their properties.

William C. Lane, having organized the International Harvester Company, and acquired these various properties under contracts with the separate corporations, sold the same, together with \$60,000,000 of cash working capital to the International Harvester Company for all of its capital stock; and thereupon Lane made the voting trust agreement and put all of the stock in that voting trust, and in lieu of the certificates of stock, stock trust certificates were issued covering the above as follows:

For the properties of the Champion, Deering, McCormick and Plano companies, including all expenses of organization, appraisals, attorneys' fees, etc., \$56,851,803.34; for the Milwaukee property and receivables, \$3,148,196.66; to Champion, Deering, McCormick, Plano and Morgan interests for cash paid for working capital, \$60,000,000.00; total, \$120,000,000.00.

Examination resumed by Selden P. Spencer, counsel for Respondent:

Q. You have gone over that paper which is called Exhibit "B," carefully? A. I have.

Q. These statements are correct? A. I believe them to be.

Q. I want to ask you in regard to the dividends of the New Jersey Company, can you give me the per cent. of dividends, we usually speak of dividends five or four per cent.; what dividends did this company declare? A. I gave a paper to General Hadley that had them.

Q. Does that recite the per cent.? A. Yes, sir.

Q. I would like to have you state it? A. The dividend in 1903—

Commissioner: That has been admitted as an exhibit, unless you want to examine him in regard to it.

A. Three per cent. in 1903, four per cent. in 1904, four per cent. in 1905, four per cent. in 1906, four per cent. in 1906, and three and one-half per cent. in 1907.

Q. Any other dividends? A. No, sir.

Q. What is the surplus? A. Twelve millions.

Q. What per cent. that be per year? A. Two millions per year for six years, that would be.

Q. One and a fraction of a per cent.? A. Yes, sir.

Q. So the gross dividends of the company, including that declared and that used as a surplus, would be between five and six per cent. each year? A. Yes, sir.

Q. May I ask you again, what was the purpose for which the International Harvester Company was formed?

Commissioner: I suggest he has answered that two or three times. I think he has answered it as well as he can, he has endeavored to answer it as clearly as he could.

A. I think I said that the formation of the company was so far as the McCormick people were concerned, was to escape the condition where there would be the necessity of raising prices, and it was to go back to the raw material by making their steel, having ore mines, blast furnaces, things of that kind. To make a profit in that way that could not be otherwise made unless the prices were raised and everybody was opposed to raising the prices, both agents and farmers.

Q. Was there any other purpose? A. Well another purpose was to help in regard to the foreign manufacture, the development of the business was such that it was evident that some capital would be required and this was the method of getting it.

Q. What has been the result, has there been any increase in price between 1902 and 1907, I exclude 1908? A. There has not. Not in any of the lines.

Q. I understand the first increase in prices was for the season of 1908? A. Yes, sir.

Q. The increase of that you remember was five per cent., the details of which you are to furnish if so desired? A. Yes, sir.

Q. Why was the Osborne Company taken over by the Inter-

national Company some time in 1903? Why was it purchased? A. The moving causes were, I think I referred to that, the reason the Osborne Company had a very fine line of tillage implements, and the new company did not have the line of tillage tools or implements as good, and we wished to develop that, and these tillage implements or spring tools has been the best the present company manufactured.

Q. What do you mean by spring tools? A. Tools for the preparation of the ground as opposed to the harvesting tools. Then another reason why the Osborne Company was purchased was because they had a very fine foreign trade and this company was desirous of getting the foreign trade; another reason was because their works were near the sea coast, and made a good place to ship foreign goods from.

Q. Did the respondent company ever manufacture goods in Missouri? A. No, sir.

Q. Did any of the companies so far as you know, that you have given, manufacture goods in Missouri? A. Not to my knowledge.

Q. Have any of the transactions of which you have spoken of, any of this company's transactions or purchases been made in the State of Missouri? A. They were not.

Q. All outside of the State of Missouri? A. Yes, sir; they were.

Q. Was any one who was an officer or director of the respondent company prior to August, 1902, ever an officer or director of the International Harvester Company of New Jersey? A. There was not, I answered that once before.

Q. Were any of the officers or directors of the D. M. Osborne Company, or Aultman Miller and Company or the Buckeye Company ever an officer of the New Jersey Company? A. They were not.

Q. Is this stock of the New Jersey Company listed on Wall Street, is it stock that is traded in? A. It is not.

Q. Are there any basic patents in operation now that underlie the manufacturing of these harvesting machines that would keep others except the ones using it from the manufacturing of the machinery? A. Not to my knowledge.

Q. That is the basic patents have all expired? A. Yes, sir.

Q. Mr. McCormick, in the original plan was it in the original plan when you went into it, when you sold to the International Harvester Company to buy additional plants? A. It was not.

Q. Was there any, in the formation of the International Harvester Company, was there any capital provided for the subsequent purchase of other plants, you said you provided sixty millions of dollars as working capital, was that provided for the purchase of other plants? A. It was not.

Q. That is the subsequent purchase of plants by the New Jersey Company was originated after its formation, the plan for the purchase of it? A. It was.

Q. I want to make this clear, you said Mr. McCormick, that sixty millions of the stock of the New Jersey Company was paid for in cash? A. I did.

Q. And then in answer to one of the questions from the Attorney-General, Mr. Hadley, as I recollect, you say that some of that sixty millions was taken by the vendor and paid for by their bills receivable? What do you mean by that? A. Well I presume, I do not remember that I said just that.

Q. Perhaps I have you down wrong? A. The two sixty millions, one was for the plant and the receivables, and the other was for cash. I meant that some of the vendors individually subscribed for stock through the New York syndicates which they paid for in cash such as any outsider would pay, in addition to the stock that came to them for their receivables or for their plant.

Q. That was not quite what was in my mind. So the cash stock, if I shall call it, actually paid for by receivables or was it subscribed and receivables put up as security, out of the collection of which the payments were to be made? A. I think I tried to explain to the Attorney-General the transaction was cash, the collection of the bills receivable was an incident. But the cash came through the bills receivable.

A. The new company.

Q. Did they get a commission for collecting it? A. They were paid, yes, sir; a per cent.

Q. These bills receivable belonged to the vendor? A. Yes, sir.

Q. To whom did the bills receivable belong? A. To the vendor.

Q. All of the time? A. They were collected by the new company at a per cent. the expense of collection, and as the money came in, it was the property of the vendor and turned over to the trustee of Morgan and Company to pay their cash subscription.

Q. Suppose there had not been enough money come in for the cash subscriptions? A. It had to be paid.

Q. What was done with the bills receivable that were left, after enough had been paid to pay the cash subscription? A. They were returned to the companies called the vendors. The bills receivable were treated like collateral of a note.

Q. You stated the formation expenses amounted to something like three million dollars as I remember it? A. Yes, sir.

Q. And the bulk of that was paid to J. P. Morgan & Co.? A. Yes, sir.

Q. Did that include the attorney's fees and appraisers, and organization expenses? A. The total sum did, the three millions did not.

Q. What was the total sum? A. Three million six hundred thousand.

Q. That included the amount paid to Morgan & Company, and the appraisement fees and organization expenses? A. Yes, sir; everything.

Q. Why were the prices changed, you say nothing had been increased until the season of 1908? Why were they increased then? A.

Because the prices of raw material and labor and everything else was going up so; we were faced with the necessity of making but little profit or making some increase in the prices.

RE-DIRECT EXAMINATION.

By Herbert S. Hadley:

Q. This list of so-called dealers or so-called list of dealers, which is marked Exhibit "A," which you have furnished here and concerning which I examined you, that gives the list as you understand it of those engaged in the handling of different machines in the year 1902? A. I so understand it.

Q. At the time of the organization of the International Harvester Company of New Jersey? A. Yes, sir.

Q. Do you know whether those persons that are indicated here in business are still in existence? A. I couldn't say as to the whole list. There may be some deviation from that.

Q. What was the date of the preparation of this paper as made, last fall? A. My impression is it was much later than 1902, I got it last fall, I think it was prepared last year, I do not think it was as far back as 1902.

Q. I understood you in your answer to Judge Spencer to say it gave the list of those in business in 1902? A. Yes, sir.

Q. You mentioned some five or six firms that had failed prior to 1902? A. May I have that list you are reading from?

Q. You picked out some five or six that had failed? A. Yes, sir.

Q. Is it your desire to be understood as saying that those persons whose names you gave are firms that failed prior to 1902? A. I think so.

Q. After you have read the list again, I will have you just mark them there on that list, you gave yesterday a list of the principal manufacturing dealers failing between 1901 and 1902? A. The Buckeye was 1903, the Wood was before 1902, the Morgan, they went out of business, they did not fail. They went out of business on account of the stress.

Q. When you say they went out of business on account of the stress of competition, that is your conclusion? A. Yes, sir.

Q. You don't know whether but some of their cashiers may have defaulted or there were other causes that contributed to their failure? A. I say the general impression was for the reasons I have given.

Q. That they were not able to compete with the other companies in business? A. Yes, sir.

Q. The competition at that time was determined by the popularity of the different machines to a large extent? A. That was only an element.

Q. I mean on the binder portion? A. Yes, sir.

Q. A great deal of money was spent on advertising? A. Yes, sir; by tricks of all kinds.

Q. You do not undertake to say but what these companies that



failed, failed largely because the machines they had patented and produced were not the equal of the McCormick and the Plano and the Champion, and the Deering? A. I would not say that the failures were because the machines were failures, I would say it was the combined stress of the circumstances, mostly the stress of the circumstances.

Q. Did you not claim and do now, that the McCormick was the superior? A. We always did that.

Q. And did not Deering claim his machines better than yours? A. Yes, sir.

Q. You are not making, or did not buy any of the patents of these machines? A. No, sir.

Q. The companies that manufactured the machinery have become obsolete? A. I know directly that some of these did so, are not in direct line of competition now.

Q. I will ask you if the machinery these companies made went to the junk heap? A. Yes, sir.

Q. And are discarded implements? A. Yes, sir; the St. Paul—

Q. That was the same as the Wood? A. No, sir; that firm, that failed before the Wood Company bought it.

Q. The Wood Company was a reorganization? A. No, sir; they built new works and then the Wood Company came in and bought their business. The Minneapolis had a first class machine, but they failed on account of the stress of the situation.

Q. In what year? A. That was before, that was before 1900. The Cyberling, they failed along in the 90s. They had a very good machine, but they were a small concern.

Q. They did not have the capital to meet the competition of the larger companies? A. That is not my explanation of it.

Q. It is not? A. No, sir; Whitely, Fish and Kane was a member of the three Champion concern. They had a splendid machine.

Q. Did Warder, Bushnell & Glessner get their machinery? A. Yes, sir; no, sir; the Champion Machine Company and the Warder, Bushnell & Company and all of those companies manufactured practically the same machine for the different parts of the country, but the methods of business of the others except the Warder, Bushnell and Company were not as good and did not survive.

Q. And Whitely was the one, that was the fellow—they were the ones that were described as the hearty and reckless body of men, half cowboy, half mechanic and no trick was too dangerous or too desperate for them. They were the ones described in Mr. Casson's article? A. Yes, sir.

Q. He built railroads? A. I don't know. The Winona had a very good machine and they were new people. They were bankers and could not stand the pressure, and they failed. The Esterley was an old manufacturer, and they failed.

Q. What year did the Winona and Esterley fail? A. In the early 90's.

Q. So really there were only about three failures along about 1900, and one of those after the consolidation? A. Yes, sir.

Q. Now how many failures since the consolidation, have you got a list of those? A. No failures since the consolidation.

Q. No implement companies got out of business? A. Only the Buckeye.

Q. That is the Aultman Miller? A. Yes, sir.

Q. And they failed in 1903? A. Yes, sir.

Q. In this list you say they are all still in existence? A. They are. The list on the left hand side of the left hand column.

Q. You do not mean to say that there have been no failures since 1903? A. The Buckeye is the only one that has failed.

Q. There are only two left in Missouri, what other companies besides the Acme and the Johnston, are doing business in the Central West? A. That is all.

Q. There are only two companies in Central West doing business and one of those organized since the organization of your company? A. Yes, sir.

Q. Were any of those companies that failed prior to 1902, engaged in business in Missouri at any time prior to that to your knowledge? A. I think a good many of them were.

Q. You have no definite knowledge. Now prior to the organization of the New Jersey Company, the McCormick had sold machines abroad, had they not? A. Yes, sir.

Q. Had a regular foreign trade? A. Yes, sir.

Q. And the Deering? A. Yes, sir.

Q. The Plano? A. Yes, sir.

Q. The Milwaukee Company? A. Yes, sir.

Q. The Warder Bushnell and Glessner Company? A. Yes, sir; rather small.

Q. Had some foreign trade? A. Yes, sir.

Q. Your foreign trade prior to 1902 was large? A. Very large.

Q. What per cent. of your business? A. I never figured it up by per cent., the substantial per cent., fifteen or twenty per cent.

Q. You say from 1902 to 1907 you did not raise prices, you mean by that you did not change the list price? A. I mean we did not charge more for the machines.

Q. And after 1902 you charged what was the price that was shown by list. A. Yes, sir.

Q. But prior to 1902 you did not charge the price as shown by the list. You do not mean to say that the average prices received on all these implements sold by the New Jersey Company were not higher after 1902 than the average price of these different companies on the same number of machines? A. The average may have been higher by reason of less concessions but not in raising prices.

Q. After these trust certificates and voting agreement had been issued? A. Yes, sir.

Q. And held by the stockholders of the two companies? A. Yes, sir.

Q. You say at the time of the plan of the organization of the New Jersey Company was agreed on the subsequent purchase of the

Osborne and the Aultman-Miller and the Weber Wagon Company was not agreed upon? A. Yes, sir.

Q. I understood you to say you did not know what companies Mr. Perkins had agreed to take in when you went down to Mr. Cravath's office? A. I say at that time there was no plan to take in a large number of people, we learned just prior to July 28th the companies Mr. Perkins had treated with and there was no preliminary agreement or plan at that time to deal with more than those we were discussing and that were announced to us at that time.

Q. That was the development of the business? A. It was.

Q. The status of the receivables, as you collected them in, the distribution of the stock of the New Jersey Company, was that all determined upon by these written contracts in Mr. Cravath's office? A. Yes, sir.

Q. And when these are produced in evidence there will be no controversy over that matter? A. Yes, sir.

Q. You think that is true? A. Yes, sir.

Q. Of your competitors in the harvesting line the Acme and the Johnston kept the same prices since 1902 as they had at that time? A. I think they have.

Q. They have not consolidated? A. Not that I know of.

Q. They have not the benefit of these great economies that you and Judge Spencer have been talking about? A. I dont know what economy they have the benefit of, I am not acquainted with the details of their business.

Q. They have no great tracts of timber lands? A. No, sir.

Q. They are paying dividends? A. I think they are making more profits than ever they did before.

Q. They do not sell their machines as high prices as you do? A. I think practically about the same.

Q. Is it not ten dollars less on the machine? A. I dont think so.

#### RE-CROSS-EXAMINATION.

By Selden P. Spencer:

Q. When were the machines to be sold in the season of 1908, when were they manufactured? A. The manufacturing began in September, 1907.

Q. When was the material for them purchased? A. Along from May 1907 continuously until, through the winter until the end of 1907. In fact, the purchasing goes on all the time but the basic contracts are made—

Q. So the machinery to be sold in 1908 are all manufactured in 1907 and the material bought prior to that some time? A. No, sir; the machines are not manufactured in 1907 for the season of 1908, but the large purchases of the machinery are made in the summer and spring before and the small purchases are going on all the time.

Q. In other words, if there was a fall of prices in the spring of 1908, that would be very little help so far as the cost of the product for 1908. The machines to be sold for 1908 largely depends on what the cost of material is in 1907? A. Yes, sir.

Q. Under that agreement to which General Hadley refers between the McCormick Harvester Company and Mr. Lane it was provided that the amount of stock to be given for your tangible property was to be arrived at by appraisement? A. Yes, sir.

Q. That you say is similar to the other vendors, that you did not know, not having seen? A. Yes, sir.

Q. Now in Exhibit "B" where the appraisals were brought in, they were much more than the capital stock left to pay for them? A. Yes, sir; they were.

Q. So the delivery of the capital stock was modified to bring it down. I mean it was necessary to bring the appraised value down to the amount of capital stock left? A. Yes, sir; I think I explained that.

Q. That was by agreement between yourself and Mr. Lane so far as the McCormick was concerned? A. Yes, sir.

Q. And the others made similar agreements? A. I don't think Mr. Lane had anything to do with that.

Q. That was Mr. Perkins? A. Yes, sir; that was afterwards.

Q. I understood you to say that Exhibit A of that list of the competitors was substantially correct now except some changes? A. I was so notified by the general manager in the office, I had no more reason to doubt that than any other statement brought to my knowledge.

Q. Is that equally true of the increase of cost of labor and material referred to by General Hadley a few minutes ago? A. Yes, sir.

Q. That was prepared under your supervision? A. Yes, sir.

Q. As far as you are able to say that is a true statement of facts? A. Yes, sir.

#### RE-DIRECT EXAMINATION.

By General Herbert S. Hadley:

Q. Do you know who prepared this? A. It was prepared by our purchasing department.

Q. Do you know who prepared it? A. The manufacturing department and supervised by the general manager of the departments.

Q. Do you know who the men were? A. I don't know who the clerks were, I know the man at the head of the department. The head of the purchasing department was Mr. Utley, he supervised his department.

Q. You take your foundry iron, you got that from the company you owned, did you not? A. Partly from what we owned and partly from purchases we made.

Q. Take that which you owned, you do not mean to say that the prices, that the cost of production of that had increased? A. That is a contract price.

Q. That is the contract you made? A. There is nothing here which we owned, that is what we purchased.

Q. Take your wood, you owned the material, you own the timber and timber land? A. Yes, sir; certainly.

Q. Then where you figure the advance you figure the advance on property you own? A. That part of it.

Q. Where did you get the statistics as to labor? A. The labor is in our works and the other works of the company.

Q. Has there been a decrease in prices of labor since the 1st of January? A. Very little.

Q. Some? A. Yes, sir; there has been some.

Q. Take pig iron, it is way down now? A. Yes, sir; since—

Q. This was prepared long before last summer, was it not? A. In September or October, I think it was filed in September.

Q. It was prepared just before being filed, prepared last September? A. Yes, sir.

Q. It does not undertake to represent the correct prices of material at the present time in 1908? A. No, sir; it could not if it was prepared then.

At this point Attorney General Herbert S. Hadley announced that the witness was excused and that no further evidence would be taken at this hearing, but that he would consult with the commissioner and the attorneys for the respondent and give notice of another hearing at such time and place as was determined upon by him after consultation with the commissioner and counsel for the respondent.

Whereupon the commissioner, Theodore Brace, announced that the hearing called to meet in Jefferson City on May 7th in the above entitled cause was now adjourned, to meet at such time and place as he would announce later and would notify counsel of the time and place so agreed upon for such hearing.

Mr. McCormick:

I find that I was mistaken in saying that no stock of the Weber Wagon Company was purchased. My memory was at fault as to that transaction. The International Harvester Company purchased four-fifths of the capital stock of the Weber Wagon Company November 12, 1904, with an option on the remaining one-fifth at a price which was based upon careful appraisals of all the physical properties of that company, and excluded all the receivables of the company at the time of the purchase. The option to buy the other one-fifth of the capital stock was exercised August 12, 1905; and shortly thereafter the Weber Wagon Company conveyed its manufacturing plant and all its tangible assets to the International Harvester Company, as shown by the deed and bill of sale dated September 2, 1905, which was handed to General Hadley yesterday. There was no change in the directors or officers of the Weber Wagon Company until a few weeks before that deed and bill of sale were executed.

And at the close of the hearing and after the adjournment of the same, the following exhibits which have been referred to during the examination of the witness, Cyrus H. McCormick, and which were identified by him, were produced by counsel for respondent and were by counsel for informant asked to be attached to, incorporated and made a part of the record of the above hearing.

Said Exhibits being copied at this place and marked Exhibits 2½ and 3, and also Exhibit C, which was produced by counsel for the respondent and asked to be attached to, incorporated and made a part of the record in the above hearing on behalf of the respondent.

All of said Exhibits appearing respectively in words and figures as follows, to-wit:

# INTERNATIONAL HARVESTER COMPANY.

## OFFICERS.

Charles Deering, Chairman of Board of Directors.  
Cyrus H. McCormick, President.  
James Deering,  
Harold F. McCormick,  
J. J. Gessner,  
W. H. Jones,  
Vice-Presidents.  
Richard F. Howe, Secretary.  
Harold F. McCormick, Treasurer.

## DIRECTORS.

George F. Baker,	William H. Jones,
Cyrus Bentley,	Cyrus H. McCormick,
W. J. Calhoun,	Harold F. McCormick,
P. D. Cravath,	Stanley F. McCormick,
Charles Deering,	George W. Perkins,
James Deering,	Norman B. Ream,
E. H. Gary,	Charles Steele,
John J. Glessner,	Leslie D. Ward,
Richard F. Howe,	John P. Wilson.

Each director holds one share of stock to enable him to qualify.

# INTERNATIONAL HARVESTER COMPANY OF AMERICA.

Same Officers.

## DIRECTORS.

Charles Deering,	James Deering,
J. J. Glessner,	Richard F. Howe,
W. H. Jones,	Cyrus H. McCormick,
Harold F. McCormick,	Stanley McCormick,
	Geo. W. Perkins.

Each director holds one share of stock to enable him to qualify.

## APPROXIMATE GROSS SALES.

of the

# INTERNATIONAL HARVESTER COMPANY OF AMERICA.

in the

## UNITED STATES.

1903.....	36,600,000
1904.....	30,700,000
1905.....	36,200,000
1906.....	41,900,000
1907.....	46,200,000



From three-fifths to two-thirds of the above amounts represent the gross income of the International Harvester Company from sales of said goods to the International Harvester Company of America.

# COMPARISON OF PRICES OF PRINCIPAL MATERIALS AND OF LABOR USED IN MAKING HARVESTING MACHINES.

Materials.	1901-2 Contract Prices.	1907 Contract Prices.*	Increase.
<b>Pig Iron:</b>			
No. 2. Foundry Iron.....	\$18.50 ton	\$30.75 ton	58.7%
Malleable Bessemer.....	14.50 ton	21.40 ton	47.6%
Steel.....	1.85 cwt.	1.665 cwt.	23.3%
<b>Lumber:</b>			
Yellow pine Pole Stock.....	26.00 per M.	37.50 per M.	44.2%
Hardwoods .....	25.50 per M.	37.50 per M.	47.0%
Crating.....	9.00 per M.	15.00 per M.	66.6%
Cotton Duck.....	.27 yard	.365 yard	35.1%

NOTE (\*) Current market prices show an increase of from 10 to 15 per cent over the contract prices used above.

**WAGES**—Average wage per hour, combining time and piece work:  
1902—19.4 cents.      1907—22.8 cents.      Increase—17.5 per cent.

Proceedings had before Theodore Brace, special commissioner in the above entitled cause in Jefferson City, in the State of Missouri, in the Attorney-General's office, on the 3rd day of December, 1908. Said hearing having been adjourned from the 8th day of May, 1908, by agreement of Special Commissioner, Theodore Brace, and counsel for Informant and Respondent, in the above entitled cause.

Honorable Herbert S. Hadley, Attorney-General of the State of Missouri, Honorable Frank Blake, and Honorable F. G. Ferris, Assistant Attorneys-General for the State of Missouri, appearing as attorneys and counsel for the State of Missouri.

Honorable W. M. Williams, Honorable Selden P. Spencer and Honorable Edgar A. Baneroft, appearing as attorneys and counsel for the Respondent.

WM. H. JONES, of lawful age, being duly sworn, testifies as follows:

## DIRECT EXAMINATION.

By Attorney-General Herbert S. Hadley:

Q. State your name, residence and occupation? A. Wm. H. Jones of Foster, California.

Q. Your business? A. Well, I am in no particular business of late years.

Q. Are you connected with the International Harvester Company?  
A. I am Director and Vice-President; I do not take any active part.

Q. You are, of course, a stockholder? A. Yes, sir.

Q. How long have you been connected with the Harvester Trust business? A. I am not connected with any trust business.

Q. Well, with the Harvester business? A. Since the fall of 1866.

Q. What company did you start with? A. I retailed machines to the farmers—

Q. What was the name of your Company? A. The Company I got machines of was Dodge-Stephenson Manufacturing Company of Auburn, New York.

Q. When did you become connected with the Plano Company?  
A. I organized it in the spring of 1881.

Q. How long did the Plano Company continue in business? A. Until we sold out.

Q. When was that? A. It was in July, 1902.

Q. Now, for, say ten years, prior to July, 1902, you were actively engaged in the business of running the Plano Company? A. Yes, sir; from the beginning.

Q. Who were your principal competitors during these ten years?  
A. The principal ones were the Deering and McCormick; there were, of course, a good many others.

Q. But the Deering and McCormick were the largest? A. Yes, sir.

Q. How about the Osborne Company? A. They were not much of a competitor of ours in this country.

Q. They were in the East? A. Yes, sir; in New York and in foreign countries.

Q. But your principal competitors were the Deering and McCormick people? A. Yes, sir.

Q. They were actual competitors? A. Yes, sir; very.

Q. You were not in any combination or trust or agreement? A. Not in the least.

Q. The competition was pretty fierce and active between you? A. Could not have been any worse.

Q. No worse or any better? A. Yes, sir; it could have been better.

Q. How could competition have been better? A. If they had not fought one another so hard.

Q. You mean by fighting each other each of you were trying to get the trade? A. Yes, sir.

Q. In 1902 you sold out? A. Yes, sir.

Q. To whom? A. A man by the name of Lane.

Q. Who was Lane? A. He was president of a Trust Company in New York; I don't know the name of the Trust Company.

Q. Did Lane continue in the Harvester business after you sold out to him? A. Not that I know of.

Q. What did Lane do with your business after you sold out to him? A. He sold out the Harvester business—

Q. Lane simply held it as a temporary arrangement? A. I suppose.

Q. That was your understanding at the time? A. Yes, sir.

Q. When was this plan of the organization of the International Harvester Company first broached to you, and by whom? A. Well, as far as the International Harvester Company, I did not know anything about that until the first of August, but the first, I got a telegram from Judge Gary, he is an old friend of mine, he used to do some legal business for us before he went to New York, he asked me to go down, and I took Mr. \_\_\_\_\_, the Vice-President and went down to see him.

Q. Go ahead and tell what occurred? A. After we went there he said he wanted to talk to us concerning the matter, and introduced us to G. W. Perkins.

Q. That was in J. P. Morgan's office? A. Yes, sir.

Q. Tell what occurred? A. Well, Perkins said he wanted to know if we wanted to sell out our business, and I told him I was willing to. I do not remember all the conversation that day; I know the interview was only short, and I saw him back and forth for quite a while.

Q. Now, what month was that? A. In July, 1902.

Q. Had you seen Mr. Perkins before that time? A. Until that time I never knew him.

Q. Had you seen Judge Gary in reference to the organization of the new Company to buy out your plant, before that time? A. No, sir; never in reference to that; I knew the man for years.

Q. That is Mr. Gary of the Steel Trust? A. Yes, sir.

Q. How did he happen to send for you to come to New York? A. I could not tell.

Q. Did you afterwards learn? A. Yes, sir; he told me.

Q. What did he tell you? A. He said he wanted to introduce us to Perkins, who wanted to buy our business.

Q. Did he tell you why he was taking this kindly interest in you? A. No, sir; but I took it for granted it was because of the kindly interest he took in the Plano Company. We had been buying steel from him and he had done legal business for us when he lived in Chicago.

Q. Had you any communication with Judge Gary before that time with reference to selling your business? A. No, sir; never.

Q. What did he say to you; what did Judge Gary say to you when you went to New York? A. He told me what I stated to you.

Q. Mr. Perkins was not in the Harvester business, was he? A. No, sir; not that I know of.

Q. You went there and saw Mr. Perkins? A. Yes, sir.

Q. When were the first papers signed in reference to this new organization? A. July 28th.

Q. Had you not signed a paper before that you left with Judge Gary? A. No, sir.

Q. Was there a paper called the main agreement? A. That was the only agreement, and that was July 28th.

Q. Is that the date of the main agreement? A. Yes, sir.

Q. Was there not an agreement outstanding in March? A. I never heard of that.

Q. You never heard of that? A. No, sir, never.

Q. What were the terms of that agreement, as you recall them? A. We simply sold our plant, material and repairs and machinery and things on hand.

Q. To whom? A. Lane.

Q. Lane, who was running the Trust Company in New York? A. Yes, sir; he was connected with some bank company.

Q. Did you ever know Lane? A. Never.

Q. He never had been in the Harvester business? A. No, sir.

Q. There was provided in this agreement that there should be organized a Harvester Company to take over these different properties? A. Yes, sir; at the time the contract was signed, of course.

Q. Then this Company was organized when? A. It was organized soon afterwards.

Q. Early part of August? A. How is that?

Q. The early part of August? A. Yes, sir; I think it was.

Q. Did you agree upon the name at the meeting in Mr. Perkins' office? A. No, sir; not when the first contract was signed.

Q. That was afterwards? A. Yes, sir.

Q. In this preliminary negotiation between you and Mr. Deering and Mr. McCormick and representatives of other Companies, who conducted these conferences? A. I could not tell you.

Q. When did you first meet Mr. Deering and Mr. McCormick? A. When they signed the contract.

Q. That was in Mr. Perkin's office? A. No, sir; Mr. Cravath's.

Q. He was the lawyer of Mr. Morgan? A. I suppose so.

Q. Had you not met them at Mr. Perkins' office? A. No, sir.

Q. You were at one hotel and Mr. Perkins at another and Mr. McCormick at another and Mr. Deering at another? A. I don't know where they were; I was stopping at the Holland House.

Q. You had frequent communications and interviews with Mr. Perkins? A. I used to go down to his office. I used to go to the Imperial Hotel.

Q. As the result of such interview with Mr. Perkins you finally got to Mr. Cravath's office, where you signed the papers and turned your property over to Mr. Lane? A. Yes, sir.

Q. He was to hold the properties until the new company was organized? A. Yes, sir.

Q. What did the Plano Company transfer to Mr. Lane? A. The plant, machinery and tools, everything that pertained to the manufacture, the machinery and repairs and materials of all kind on hand, that is, everything for the running of the business.

Q. What did you get for it? A. I could not say.

Q. How was it paid for? A. Paid for that property; it was paid for in stock.

Q. In the new Company? A. Yes, sir.

Q. That company was in reality the International Harvester Company of New Jersey? A. I suppose; I did not know its name at the time.

Q. You did not know its name? A. No, sir.

Q. After the child was born and named it was the International Harvester Company of New Jersey? A. Yes, sir.

Q. At that time a part of the plan was to purchase the International Harvester Company of Milwaukee. I mean the Milwaukee Harvester Company? A. No, sir; the Morgan people had an option on that, so they told me.

Q. When did they tell you that? A. About the time the contract was signed.

Q. As a result of all this, you have been telling about the plants of the Milwaukee Company, of the Deering Company, of the McCormick Company and the Plano Company were turned over to the International Harvester Company of New Jersey? A. Yes, sir; but they sold everything; the people that owned the Milwaukee Company sold everything.

Q. And in the case of these other Companies, they transferred their properties? A. Yes, sir.

Q. Their plants? A. Yes, sir.

Q. There was a special arrangement in the case of each Company as to handling the bills receivable? A. I do not remember as anything was said about that at that time, but they never bought the receivables or accounts.

Q. But the patents, and the properties of the four Harvester Companies were taken over by the International Harvester Company of New Jersey? A. Yes, sir.

Q. After that they were conducted as a part of the business of the International Harvester Company of New Jersey? A. Yes, sir.

Q. And the International Harvester Company of New Jersey paid the stockholders of Companies that had previously conducted these plants in stock? A. Yes, sir.

Q. Honorable Theodore Brace, Commissioner: You mean stock of the New Jersey Company? A. Yes, sir.

Q. So, after the making of this agreement these companies that had been competitors of yours, ceased to be competitors? A. They naturally would.

Q. They became part of one organization? A. Although the first year there was as much competition as if each concern run its own business.

Q. They continued the business under one management? A. No, sir; practically as it was in 1903.

Q. What do you mean by that? A. I mean this, we did not have the organization we have now; for instance, the Plano business was run by the man that always had run the Plano business; the same general agents and the same traveling men, and so forth, as if we had not sold out at all.

Q. And the Deering and the McCormick the same way? A. Yes, sir.

Q. And the Milwaukee? A. Yes, sir.

Q. What, if any, profit you got were turned into a common treasury? A. Yes, sir.

Q. The competition succeeded in a rivalry? A. Between the men.

Q. Whatever profits were made by the Plano in the sale of its

machinery were turned over to the treasurer of the International Harvester Company? A. Yes, sir.

Q. When it come to the distribution of the profits you got your share in dividends upon your stock? A. Yes sir; what little I got.

Q. Are you familiar with the last report of the Company? A. Yes, sir.

Q. That showed in 1907 profits of eight million dollars? A. I do not remember.

Q. Do you not remember that your treasurer apologized because your net profits were only eight million and your surplus twelve million? A. I remember—

Q. What is the capitalization of your company? A. One hundred and twenty million dollars.

Q. The undivided profits are how much? A. The surplus is twelve million.

Q. Are there not undivided profits besides the surplus? A. None that know of, besides that eight million, I have not the figures.

Q. How much stock did you own in the Company? A. I did not own much of it.

Q. How much was given for the Plano plant? A. I could not tell you exactly.

Q. How much was given for the various plants that went into the new organization? A. The total in stock of the International Harvester Company of New Jersey. What I understood was sixty million was to be paid in cash, and the other sixty million was to cover the property we were buying.

Q. The entire assets of the Company at the last annual report was \$156,282,454.16, was it not? The value of the assets at the last annual report was \$156,282,454.16? A. I could not tell you as to that.

Q. Have you any recollection? A. No, sir.

Q. Would you say that was about the amount? A. I could not tell you.

Q. How much has been paid in the last, since 1902, in dividends and profits? A. Dividends in the fall of 1903 were three per cent.

Q. On 120,000,000.00? A. Yes, sir.

Q. That would be 3,600,000.00? A. Yes, sir.

Q. How much in 1904? A. Four per cent.

Q. That would be 4,800,000.00? A. Yes, sir.

Q. How much in 1905? A. The same.

Q. \$4,800,000.00? A. Yes, sir.

Q. How much in 1906? A. The same.

Q. 4,800,000.00? A. Yes, sir; I think that is right.

Q. And 1907 it was 8,000,000.00? A. Yes, sir.

Q. Your profits were 8,000,000.00? A. Well, you said so, and I would have to think about that.

Q. What, about the dividend. A. 3,150,000.00.

Q. So besides paying all these dividends to stockholders, you have accumulated in addition to that about 12,000,000.00? A. Surplus.

Q. Yes, sir. A. Yes, sir.

Q. Was it in 1907 you made a horizontal increase of five per cent. in the price of your output? A. In 1908.

Q. Although during 1907 you had made 8,000,000.00? A. Yes, sir; I suppose.

Q. Although your profits were 8,000,000.00 in 1907, you increased the price of your output 5 per cent. A. Yes, sir; about that; I do not think that is exactly correct, General. We never advanced the price five per cent. on every thing we sold.

Q. I thought your answer stated so? A. It is not correct.

Q. So your lawyers have some information that is not correct if they said so in their answer? A. I know this is so; you want the facts?

Q. Yes, sir; I was going on your answer. When you went to New York at the time this main agreement was signed up, as you call it, did you know what other companies besides the McCormick and Deering were to be included in the agreement? A. I did when the contract was signed with the others.

Q. What others? A. Deering, McCormick, Mr. Glessner, Mr. Lane and myself, and I think Perkins, Gary and Cravath were there at the time this new organization was formed.

Q. You knew your old competitors were going into the same new company you were? A. Yes, sir.

Q. How long before that had you formed an idea as to who was going into this new organization? A. I could not tell you as to that; not very long.

Q. A few days? A. Yes, sir.

Q. It was before you had done anything that was binding on your company? A. Yes, sir.

Q. Before you signed anything binding your Company you knew what other Companies were going into the consolidation? A. I did at that time.

Q. I say before you signed the papers? A. Yes, sir; a day or so before; I know I did the day I signed it.

#### CROSS-EXAMINATION.

By Honorable Selden P. Spencer:

Q. Mr. Jones, what did I understand you to say was the first information that led you to New York? A. Along about the first of July.

Q. What caused you to go there? A. On account of a telegram I received from Judge Gary.

Q. That was July, 1902? A. Yes, sir.

Q. The agreement for the sale of your property was signed on July 28th, 1902? A. Yes, sir.

Q. Did you have there, before that time, before July, before you went to New York, or between the first of July and the 28th of July, did you have any conference with the McCormick or Deering people or Plano people? A. Yes, sir; with the Plano people.

Q. With whom? I do not mean the Plano people, I mean the Glessner people? A. Well, then, say what you mean.



Q. Quite right, that is right, you correct me. Did you have any conference with the McCormick or Deering people or Glessner people?  
A. I did not; yes, sir; I met Mr. Glesner once, I think the week the contract was signed I met him in the hall of the hotel.

Q. That was the week that the contract was signed you met Mr. Glessner in the hallway of the Holland House? A. Yes, sir.

Q. That is the only one of them you met? A. Yes, sir.

Q. Did you have any conversation with Mr. Glessner at that time?  
A. Yes, sir.

Q. Anything more than a mere passing word? A. Yes, sir; he asked me about the contracts, I think he had seen; perhaps it was the day before.

Q. The day before the 28th. A. Yes, sir.

Q. Did you see any contracts except your own? A. No, sir; I did not.

Q. When these contracts were signed on the 28th? A. Yes, sir.

Q. Did you know the contents of any contracts except your own?  
A. No, sir.

Q. Had there ever been any conference or consultation with anybody as to what the other contracts were to contain? A. Not to my knowledge.

Q. You participated in no such conference? A. I had nothing to do with that.

Q. Did anybody from your company participate in that? A. No, sir.

Q. When you signed on the 28th of July, did you actually know what companies were going to be purchased? A. Yes, sir; we were all there; all of them.

Q. On the 28th of July? A. Yes, sir.

Q. Was anything done at that meeting except the mere signing of the contract? A. No, sir; nothing.

Q. Was there any discussion or conference? A. If there was, I did not hear it.

Q. Did you stay at that meeting from the beginning to the end of it? A. No meeting; we simply went there to sign that contract; I was called in there.

Q. All that happened on the 28th of July was merely to place the signatures to the contracts? A. Yes, sir.

Q. You placed your signature to the contract you agreed on with Mr. Perkins? A. Yes, sir.

Q. Did you have any communication with Mr. Perkins except the verbal conversation? A. No, sir; I did not.

Q. All your transactions in regard to the sale of your property were verbal with Mr. Perkins, or somebody he sent? A. Absolutely.

Q. Were they made with him alone or was somebody else present?  
A. He was alone.

Q. All the conferences for the purchase of your property were with Mr. Perkins and were verbal, until July 28th, when you signed the contract which evidenced this verbal understanding; is that right. A. Yes, sir.

Q. I understood you to say that your Company received payment for your tangibles in the stock of the International Harvester Company of New Jersey? A. Yes, sir.

Q. Was there any stock of that Company subscribed for in cash by you or your Company? A. Yes, sir.

Q. How was that paid? A. In cash.

Q. Did you know, Mr. Jones, when you signed that contract of July 28th, 1902, how much you were to get for your tangibles in stock? A. No, sir.

Q. How was that to be determined? A. By appraisement.

Q. Do you remember the conditions of that appraisement? A. Yes, sir; I think I do; I think two appraisement Companies were to go over the property and appraise it, the plant and machinery and everything of that kind.

Q. That is, when you signed the contract of July 28, 1902, it was provided you were to be paid for your tangibles in the stock of the International Harvester Company of New Jersey, and you were to receive such an amount of stock as equaled the appraised value of these tangibles, which appraised value was to be determined later on. A. Yes, sir.

Q. When did you get that stock as a matter of fact? A. I did not get any for a long while.

Q. What do you mean "for a long while?" A. I do not think I got any during the year 1902.

Q. Some time in 1903? A. Yes, sir; early in 1903.

Q. Then did you get as much stock as your appraised value? A. No, sir.

Q. Why? A. Well, at that time they had not closed it up.

Q. When the value of your tangibles were finally appraised and its actual value in cash determined, did you then receive as much stock as the amount of your appraised value? A. We never got that much.

Q. Do you remember why? A. Yes, sir; the appraisement ran away above the amount of 60,000,000.00.

Q. That is your understanding was that of the \$120,000,000.00 of the capital stock of the New Jersey Company, \$60,000,000.00 of that stock was to be issued dollar for dollar for cash. A. Yes, sir.

Q. And \$60,000,000.00 was to be set aside for the payment of the tangibles of your company and of whatever other companies were purchased? A. Yes, sir; provided it ran to that.

Q. When the appraised values of the properties that were bought was finally totaled the aggregate of the appraised property was very much in excess of \$60,000,000.00. A. Yes, sir.

Q. Do you remember how much in excess? A. No, sir; I do not.

Q. Mr. Jones what led you to sell in July, 1902, when Judge Gary asked you to come to New York? A. Simply because the business was so demoralized there was no profit in the business and it was only a question of time that our hides would be on the fence.

Q. Tell to his honor what you mean by that? A. I will tell you what I mean. The prices had gotten down practically so there was no margin in the business and competition was fierce, the farmer lost

by it because canvassers persuaded farmers in the fierce competition to buy new machinery when it was not needed, the farmer was not to blame for that, it was competition, everything was demoralized and the price of material of late years was continually going up and the labor the same way, and we could make no money particularly the last few years we were in business, we made no profit in this country, it was all in the foreign trade.

Q. In 1902 the date you sold out, how long had you been in the Harvester business? A. I commenced in '60.

Q. Have you been in it continuously? A. Yes, sir.

Q. In all its departments? A. Yes, sir; I have not done much in late years.

Q. In the years preceding 1902 you said the competition was demoralizing? A. Yes, sir.

Q. By competition, I generally understand that that rivalry between firms that brings down the prices of goods and enables the consumer in a fair competition to get the benefit. What do you mean by demoralized competition? A. Busting up one another's orders.

Q. Well now go on and tell all about it? A. That was a common practice.

Q. How do you mean "by busting one another's orders?" A. For instance, you are a farmer, our agent could take your order for machinery and Mr. Glessner's man would get on to that and would try to bust the orders, our orders, turn ours back, that is what I mean.

Q. Do you know what I mean by a field trial? A. Yes, sir.

Q. Were there many of these? A. In the late years.

Q. Before 1902? A. Yes, sir; lots of them.

Q. What were they? A. Why simply put different machines in the field against one another, it was not fair play.

Q. Was that after the purchase? A. No, sir; before.

Q. Now after the purchase was there any competition, after the farmer bought his machine? A. Of course there was.

Q. Describe it? A. As I explained to you a minute ago another agent would go there and bust up these orders, it was done thousands of times.

Q. How long did this continue? A. It continued at least the last twelve years, if not more.

Q. After, when you sold out to the, when you sold out in the month of July, July 28th, was there anything in your understanding, did you know how many companies were bought at the same time or whether other companies were to be bought? A. No, sir; only those I named.

Q. Did you know whether they were all or not? Whether they were all the companies to be purchased? A. As far as I know, I never heard of any other.

Q. Did you know these were all the companies? A. Yes, sir; of course.

Q. Were they in the office the 28th of July at the time you signed? A. Yes, sir.

Q. Mr. Jones I understand you to say that the dividends of the

New Jersey Company, I believe the America Company, never has paid a dividend? A. No, sir.

Q. The dividend was 3 per cent in 1903? A. Yes, sir.

Q. Four per cent in 1904? A. Yes, sir.

Q. Four per cent in 1905? A. Yes, sir.

Q. Four per cent in 1906? A. Yes, sir.

Q. And that a little over 3 per cent, that is 3.15, that is 3,150,000 was paid in 1907? A. Yes, sir.

Q. That would be a little under 3 per cent, about  $2\frac{5}{8}$  per cent?

A. I don't know, that is the amount I got.

Q. And in addition to these dividends there were earnings represented by surplus for about five years of 12,000,000.00? A. About that.

Q. So that the dividends and surplus, calling it something like \$33,000,000.00 is as I understand you, as I added them, give an amount of \$21,150,000.00 for five years and a surplus of twelve million, we will call it 33,150,000.00 for the five years? A. Yes, sir.

Q. That would be between six and seven per cent on the capital stock per year? A. No, sir; it would not be six per cent.

Q. It would be between \$6,000,000.00 and \$7,000,000.00? A. Yes, sir.

Q. Between 5 and 6 per cent on the capital stock? A. Yes, sir.

Q. So that the entire dividends on the capital stock since its incorporation would be somewhere between three and four per cent and the entire earnings would be somewhere between 5 and 6 per cent, is that right? A. Yes, sir.

Q. As a matter of fact I understand you to say in answer to a question by General Hadley, you understood that all the companies received pay for tangibles in stock, was that true of the Milwaukee Company? A. No, sir; I explained that to him, they were paid in cash.

Q. Did you learn about the others how they were paid? A. They were paid in stock.

Q. For the first five years of the company's existence, from 1902 to 1907, was there any increase of price in the products manufactured by that company? A. None whatever in the harvester line.

Q. When did the increase take effect? A. In the fall of 1908.

Q. This is the fall of 1908, do you mean it took effect now? A. No, sir; it took effect for the season of 1908.

Q. Mr. Jones what was the course of prices for labor and material between 1902 and 1905 and of labor, you bought? A. They were continually going up.

Q. From 1902 to 1907? A. Yes, sir.

Q. Both of them? A. Most everything was going up, material was, and labor too.

#### RE-DIRECT EXAMINATION.

By Attorney-General Herbert S. Hadley:

Q. Tell the conversation you had with Mr. Glessner in the Holland House with reference to these contracts? A. Well as far as I remember General he wanted to know about these contracts, I told him I did

not know anything about them except my own and really at that time it was not all closed up or agreed to.

Q. You had not come to a definite understanding with Perkins about your contract? A. No, sir; that is practically all that was ever said between Glessner and I.

Q. You knew by that conversation that Mr. Glessner was also working with Mr. Perkins on a contract too? A. Yes, sir; of course I did, but as I said to you——

Q. So as I understand you that over a week or so before these contracts were signed you knew each of these competitors of yours were making a deal with Mr. Perkins? A. I did not before.

Q. You did that day? A. Yes, sir.

Q. Did you see Mr. Lane? A. I saw him that day.

Q. It was understood by the parties that Mr. Lane was only a temporary arrangement? A. He was doing it to form a new company.

Q. The properties of other companies were to be paid for in stock, the same way as yours and were to have an appraisalment? A. I could not tell you.

Q. You do not mean to say that you were going in and take chances on an appraisalment unless you knew the others would be measured by the same yard stick? A. I took chances on the matter as I had the utmost confidence in Mr. Perkins, I was relying on Mr. Perkins, I don't know what the rest of them did, I took him to be absolutely fair and just, I put myself in their hands.

Q. It was your understanding the others did the same thing? A. I did not know about the others, it would be a wild guess.

Q. It was the understanding that the various ones were to be paid one way and you the other? A. I did not know anything about the others.

Q. You saw your contract? A. I did not see the others.

Q. You all sat there together? A. I never saw their contracts, I saw them at the desk.

Q. Was it not provided in your contract that there was to be an appraisalment of each company? A. Mine did.

Q. Did it not say it was to be an appraisalment of the other properties? A. I relied on Mr. Perkins fairness in the matter.

Q. You knew all the properties that were to be taken in was to be appraised? A. Yes, sir; certainly I did.

Q. Judge Spencer has figured these dividends that your company has paid in the last five years \$21,150,000.00, in addition to that you have your twelve million surplus? A. Yes, sir.

Q. In addition to that your original capitalization of \$120,000,000.00 in assets has been increased to 179,000,000.00 by betterments and improvements? A. I could not tell you.

Q. Did not your report in 1907 put betterments and improvements and show that the value had increased from 120,000,000.00 to 179,000,000.00? A. I really do not remember.

Q. Did it not also show in addition to the 179,000,000.00 the 12,000,000.00 surplus, the 21,000,000.00 profits, that you also had outstand-

ing as owing to the company by the farmers of the country, \$41,000,-000.00? A. I could not tell you.

Q. Is it not the truth of the matter, counting bills and accounts receivable and surplus and outstanding accounts that you more than doubled the amount of your property in the last five years? A. No, sir.

Q. Did not your last report show that fact? A. I do not think so. Hon. Selden P. Spencer, counsel for respondent:

Q. We will be glad to furnish you that report if you desire it.

Q. You say after the consolidation there was no increase in price at once upon the harvester line, was there any increase on other lines? A. No, sir; not that I know of, except other lines, commenced to manufacture different things and perhaps we made it on these after they were put on the market.

Q. Prior to 1902, the list price of harvesters was frequently varied from in the matter of sales? A. Yes, sir; a difference between cash and notes, if sold on one year's time they charge more than two years.

Q. Did not this fierce competition you have been talking about, did not that result in the cutting of prices? A. The dealers were not making anything, nor the manufacturers.

Q. Well, the dealers did not petition you to form the combination? A. No, sir; but they were going out of business the way they were doing.

Q. How many had gone out of business in Missouri? A. I don't know, as a general thing they would naturally though.

Q. Did they not handle them on a commission? A. They did not get the price, they cut the price and they were to pay us so much.

Q. So the person that was being benefited by this competition was the farmer? A. The farmer is better off today than ever before.

Q. He was getting his binders cheaper? A. Yes, sir; but buying them more than he needed.

Q. You think the competition was causing the farmer to buy more harvesters than he needed? A. Yes, sir.

Q. You think since the combination has been formed you have been so conservative in your efforts to sell to the farmer that he is better off? A. If we put the army of men out today we had then the little concerns could not make one-tenth they do, the little concerns could not exist as they have for the last five or six years that I know.

Q. What was your capitalization prior to 1902? A. Well I could not tell you.

Q. What dividends did you pay? A. We did not pay large dividends, ten or twelve years we paid no dividends.

Q. What profits did you pay? A. What profits were paid us in dividends.

Q. What profits did you make? A. For some time during the ten years we paid none.

Q. What profits did you make in ten years? A. I could not say.

Q. Mr. McCormick testified that his business was getting better in the last ten years, was he getting a better business than you? A. I suppose so.

Q. Your business was not as prosperous as the McCormicks? A. No, sir.

Q. You think the McCormick was crowding you out of the home market? A. No question about that. The survival of the fittest.

Q. You think McCormick was the survivor? A. Yes, sir; had more capital and the best chances in more ways than the rest of us.

Q. So in order to get rid of this fierce competition you formed this new organization? A. We had to do it or wind up the business, if we had not we would have thrown all of our men out of employment. The best thing to do was to get rid of the fierce competition, to get rid of the waste of money in canvassers. We have not half as many canvassers today as we did have.

Q. The canvassers were necessary to maintain your competition? A. Before that we did it to beat one another out of business.

Q. Is that not what you call competition? A. Pretty sharp competition.

Q. It was to get rid of that you made your combination? A. Yes, sir; to better the entire thing, no question about that.

#### RE-CROSS-EXAMINATION.

By Honorable Selden P. Spencer:

Q. Mr. Jones do you remember what concerns continued in business after you sold out in 1902? A. As far as I remember Mr. Spencer but one or two.

Q. I am asking if those concerns were continued in business? A. Yes, sir.

Q. Did the Acme Harvester continue? A. Yes, sir; they went into the hands of a receiver in 1903.

Q. Are they in operation today? A. Yes, sir.

Q. What are their relative strength today as compared with 1902?

A. Well Mr. Middlecoff told me it was better than ever.

Q. Was the Adriance-Platt in existence in 1902? A. Yes, sir.

Q. Is it today? A. Yes, sir.

Q. What is its relative strength now today as compared previously? A. I could not say, I think they are doing better.

Q. Do you know the Johnston Harvester Company of Batavia, New York? A. Yes, sir; they increased their business, it is larger.

Q. Were they in existence when you sold out? A. Yes, sir.

Q. And today? A. Yes, sir.

Q. And do you know the Richardson Harvester Company? A. Yes, sir.

Q. Were they in existence in 1902? A. Yes, sir.

Q. What is their relative strength now and then? A. I could not say.

Q. Do you know the Seiberling and Miller Company of Doylestown, Ohio? A. I know of them.

Q. Were they in existence in 1902? A. Yes, sir.

Q. Are they in existence now? A. I could not say.

Q. Do you know the Walter A. Wood? A. Yes, sir.



Q. Were they in existence in 1902? A. Yes, sir.

Q. Are they in existence today? A. Yes, sir.

Q. Do you know their relative strength as today and then? A. No, sir; I suppose they are better.

Q. Do not state unless you know, you think they are stronger? A. Yes, sir.

Q. Now Mr. Jones, do I understand you to say that every dollar of profit or of gain which the International Harvester Company made from 1902 to 1907 is evidenced either by the dividends which they paid or by the surplus which they have, the \$12,000,000.00? A. Absolutely so far as I know, no question about it.

(Witness excused.)

MR. JOHN J. GLESSNER of lawful age being duly sworn upon his oath, testifies as follows:

#### DIRECT EXAMINATION.

By Attorney-General Herbert S. Hadley:

Q. State your name, residence and place of business? A. John J. Glessner, I have two residences, I spend about half of my time in Chicago and half in Middleton, New Hampshire.

Q. You are connected with the International Harvester Company? A. I am a director and a vice-president.

Q. You are connected with both, the New Jersey and the defendant company? A. Yes, sir.

Q. Director and vice-president of each? A. Yes, sir.

Q. How long have you been in the harvester business? A. For more years than anybody now living, since 1863.

Q. What was your first company? A. First with the Warder & Childs Company, they were then making reapers, mowers, plows and grist mills, corn mills and planters.

Q. That was in New England? A. In Springfield, Ohio, where our factory is now.

Q. What company were you connected with as owner first? A. Warder & Bushnell.

Q. What was the name of the company you were connected with at the time of its consolidation? A. Warder, Bushnell & Glessner. I might say there was little change, that was the connection.

Q. It was an Ohio company? A. Yes, sir. Springfield, Ohio.

Q. You did business in Missouri? A. Yes, sir.

Q. What places did you have an office? A. St. Louis.

Q. And one at Kansas City? A. Yes, sir.

Q. In Missouri who were your principal competitors? A. I think all of them, everybody.

Q. The principal ones? A. The six you have mentioned and the Walter A. Wood people and the Johnston people.

Q. What per cent of the business did the McCormick and Deering and Plano and Milwaukee Company and your company do? A. In the domestic business, in United States.

Q. And particularly in Missouri? A. I don't know what per cent in Missouri.

Q. What would you say in United States? A. Seventy-five or eighty per cent.

Q. I believe Mr. McCormick gave it as his judgment eighty per cent of the business, is that your judgment about that? A. Yes, sir; that is about right from the information I have.

Q. What was the capitalization of the Warder, Bushnell and Glessner Co. in 1902? A. The capital was \$3,000,000.00.

Q. How long had your company been in existence in the same form? A. I think since 1876.

Q. What did you start with, what capitalization? A. I don't know.

Q. Was it as much as in 1902? A. No, sir.

Q. Had your business been a profitable one? A. Yes, sir.

Q. What line did you principally manufacture? A. Reapers and mowers, and when the harvester came in, the harvester.

Q. What was the name of your harvesters? A. Champion.

Q. And your reaper? A. All the same.

Q. The principal reaper manufacturers were the McCormick, the Plano, the Deering and your company? A. And the Osborn and the Wood and the Johnston.

Q. But in this western country was not the Champion, the McCormick, the Deering and the Plano the leaders? A. Yes, sir.

Q. Did not the Champion, the Deering, McCormick and Plano have the best business here in Missouri? A. I think so.

Q. You all were competitors of each other? A. Yes, sir.

Q. There was no understanding or agreement, secret, between you people prior to 1902? A. No, sir.

Q. There was actual competition between you? A. Yes, sir.

Q. The fact is the competition was pretty vigorous? A. Yes, sir; we tried to make it so.

Q. The competition of the harvester business had been more pronounced in their early part? A. No, sir; it grew bitterness and extended right along.

Q. You think it increased? A. Yes, sir.

Q. You think there was more competition in 1902 in the harvester business than any time before? A. It depends on what you call competition. It was a bitter fight between everybody to get business and get the better of your competitor.

Q. It is the object of all business effort to get sales? A. No, sir; we were not satisfied with that, we wanted to prevent the other fellow from selling goods. To prevent him from selling did as much good to us.

Q. You did not only want to sell yourself, but you were equally satisfied to prevent anybody else from selling? A. I had a great deal of satisfaction that way.

Q. You were happy in that way because you had had an opportunity to prevent the other fellow from selling? A. Well, I can re-

member for many of these years I went home at night very happy when I thought I had knocked my friend out.

Q. Because you did not like him? A. No, sir; we were all personal friends.

Q. When you knocked your friend out of a sale it made an opportunity for you to sell? A. Yes, sir.

Q. The point is whether or not this competition was great or vigorous here in Missouri between you companies for the time we have mentioned? A. Yes, sir; it was.

Q. What time in 1902 did you have the honor of making the acquaintance of Judge Gary of the Steel Trust or Mr. Perkins of the Steel Trust and other trusts too numerous to mention? A. I have known Judge Gary since 1870, I had not known Mr. Perkins before that.

Q. When did you first meet Mr. Perkins? A. I think about the 3rd or 4th of July, 1902.

Q. Had Judge Gary been your attorney? A. No, sir; not at all.

Q. He had been the attorney of the Deerings? A. I think so, I don't know.

Q. How did you happen to meet Judge Gary? A. I did not meet him that day.

Q. When did you see him in New York? A. The 28th of July, 1902.

Q. What was the date of your first visit in New York? A. It was very early in July, the 3rd or 4th.

Q. How did you happen to go there? A. My business was divided, my factory was in Springfield, Ohio, I was located in Chicago, the Springfield end of the business was looked after by Governor Bushnell, he had a telegram from Mr. Perkins asking if he would not go to New York to see about the sale of our property, and he telegraphed me if I would go with him.

Q. That was early in July? A. Yes, sir.

Q. Had you had any communication with anybody with reference to the sale of your property? A. No, sir.

Q. That the first you had? A. We had many promoters asking us for the last twenty years but nothing about this sale.

Q. I mean that was the first communication you had from anybody looking to the formation of the present company? A. Yes, sir.

Q. That occurred there in 1902 and prior to that was the period of formation? A. Yes, sir.

Q. One great business was being merged by a promoter? A. Yes, sir; that is a matter of history.

Q. Mr. Perkins and Judge Gary were pioneers in that work? A. I knew Mr. Perkins had been instrumental in building up many businesses by increasing the capital.

Q. Did you know Judge Gary's connection with the Steel Trust? A. Yes, sir.

Q. When you got that word from Governor Bushnell did you go to New York? A. Yes, sir. I met him in Cleveland and we went together.

Q. Whom did you see in New York? A. Mr. Perkins.

Q. What did Mr. Perkins have to say? A. He asked me if I would be willing to dispose of my property, I said, yes, if I could get for it what I considered was the proper price I would.

Q. Well, go ahead and tell all the conversation? A. That was practically all there was.

Q. That the first day? A. Yes, sir.

Q. When did you have another communication with him? A. In another day or two.

Q. What did he say then? A. He said he would like to know, whether we could get at the valuation of the property, of course he did not know the property at all, he wanted to know if in selling it I would be willing to accept in payment, the stock of the company that was to be formed, and I agreed that we would be very willing to discuss the whole matter, I did not know how we could get at the valuation, he wanted to know if it could be appraised, I said yes, sir; if it was appraised by disinterested parties, and I would take at least part of my pay in stock of the company if it was properly organized. I discovered a little later I might have some difficulty in carrying out that proposition because my company had in it two estates amongst its stockholders and the estates could not do as an individual could do very well, so I sent word to Mr. Perkins I could not accept stock for the entire payment of my property, I had to have a very considerable portion of it in cash which was the final agreement and carried out.

Q. When you were first advised by Mr. Perkins about the purchase of your company, it was also his plan to purchase other companies? A. I don't know that I was directly advised about that until the 26th or 27th of July, just before the contract was signed.

Q. You knew before Mr. Perkins talked with you it was not his purpose to take over your plant alone? A. I suppose not, I had no information about that.

Q. And you did not make any inquiry of Mr. Perkins and he did not volunteer any information as to the other companies to be taken over? A. No, sir.

Q. And until some few days prior to the 28th of July, what was the date? A. Not until I agreed to make the sale on these terms.

Q. When did you first sign the contract? A. The 28th of July.

Q. Did you know there were other companies he was to take over before that? A. I agreed with Mr. Perkins some days before that, I agreed that I would accept that and in the last few days I knew there were others.

Q. You saw Mr. Jones of the Plano Company in New York? A. Mr. Jones says I did, I have no recollections of it, my impression is Mr. Jones is confused about that, my impression is it was after our contracts were signed and I asked him if all the contracts were alike, he did not know what was in mine, he had not seen it.

Q. When did you first meet Mr. McCormick? A. The 28th of July, 1902.

Q. When did you meet Mr. Deering? A. The same day.

Q. You were all there together, when you made the transfer of your property to Mr. Lane? A. Yes, sir.

Q. Have you a copy of your contract with you? A. Yes, sir.

By Attorney-General Herbert S. Hadley:

Judge Spencer we ask for the production of all these contracts, I do not care to incumber the record asking about them, have you them here?

Honorable Selden P. Spencer, counsel for respondent:

You want the one from Mr. Glessner and the one Mr. Jones has of the Plano Company?

Attorney-General Hadley, counsel for informant:

A. Yes, sir.

Honorable Selden P. Spencer, counsel for respondent:

Q. You want the Warder? A. Yes, sir.

Q. And you have the McCormick? A. Yes, sir.

Q. Anything else? A. Attorney-General Hadley, counsel for respondent:

And the contract with the Milwaukee Company?

Honorable Selden P. Spencer, counsel for respondent:

I don't know as there is any such contract, we will look it up though.

Q. Now you say there had been no memoranda of agreement prior to the 28th of July either between you and Mr. Perkins or between your company and Mr. Lane or between you and the company that was taken over? A. Only a verbal understanding.

Q. When were you advised Mr. Perkins had secured an option on the Milwaukee Company? A. I think a day or two before that.

Q. Who told you? A. Mr. Perkins.

Q. What else did he tell you in that conversation? A. I don't know as I can recall.

Q. Was it in that conversation, he told you of the other companies he took over? A. No, sir.

Q. Did he tell you what he was to make the capitalization? A. \$120,000,000.00.

Q. The companies to be taken over to be paid for in stock? A. He told me he would have at least \$60,000,000.00 of the stock to be paid for in cash and the other was to be reserved to pay for other properties he might buy, and I assumed that there were more and if the properties were not as valuable as \$60,000,000.00 that the remaining stock would be paid for in cash.

Q. So the properties that Mr. Perkins expected to merge would value \$60,000,000.00 so far as the physical properties were concerned? A. I suppose it would not be any more.

Q. There was supposed to put in \$60,000,000.00 in cash to meet future exigencies? A. Yes, sir; working capital.

Q. Upon these terms you proceeded with the negotiations which resulted in your signing the contract? A. Yes, sir.

Q. There were Mr. McCormick, Mr. Deering, and Mr. W. H. Jones, they were all four, they were there in Mr. Cravath's office where the papers were signed? A. Yes, sir.

Q. Who else was there? A. I think Judge Gary and Mr. Perkins was there.

Q. What was Judge Gary's status at that time, was he there as a general friend of all the parties? A. I don't know.

Q. What company did he represent? A. I don't know.

Q. Who represented the Milwaukee interest, Perkins himself? A. Yes, sir; I suppose.

Q. Do you know what was the amount of stock Perkins gave for the Milwaukee Company? A. I think \$3,000,000.00.

Q. What was the amount of stock the Plano got? A. I don't know.

Q. Was that paid individually to each stockholder, in stock of the new company? A. Money was paid to me.

Q. No stock? A. Yes, sir; and cash.

Q. How much stock did you own in the Warder, Bushnell & Glessner Co.? A. About 25 per cent.

Q. Did you get dollar for dollar? A. When this company was finally formed I owned a great deal more than 25 per cent, I must have owned 60 per cent.

Q. You are talking about the International Harvester Company? A. Of the Warder, Bushnell & Glessner Company.

Q. I am asking you if you got dollar for dollar for your stock, what proportion of the new company stock did you get in proportion to the stock you owned in the Warder, Bushnell & Glessner Company? A. I think I had nearly one-half in cash.

Q. And the other half in stock? A. Yes, sir.

Q. How was your stock paid for in the Warder, Bushnell Glessner Company, at par value? A. They did not buy my stock, they bought the property, they bought the plant and machinery and business.

Q. I understand that, what came to you was one-half money and one-half stock of the business? A. Of the total amount of my business, one-half came in stock and one-half in cash.

Q. Consequently your stock in the Warder, Bushnell Glessner Company was either paid one hundred cents on the dollar or at a premium? A. No, sir; the stock was never sold, I own it now, I got money from my property.

Q. You did not own any property, the corporation owned the property? A. I represented the corporation.

Q. Yes, sir; certainly you did, you did not sell any property to Mr. Lane? A. Not individually.

Q. The Warder, Bushnell Glessner Company sold to Mr. Lane? A. Yes, sir.

Q. How much did the Warder, Bushnell Glessner Company get from Mr. Lane for the property they sold to him? A. One-half in cash and one-half in stock.

Q. But you don't know the amount? A. No, sir.

Q. About how much was it? A. I cannot tell you exactly, I got nearly a million and a half in money and about two million in stock.

Q. So your company was about the same size as the Milwaukee Company? A. No, sir; my company was much larger than the Milwaukee Company.

Q. How was it Mr. Perkins got three million for his company and you got three million for your company? A. I don't know.

Q. Did you understand the property of the Warder, Bushnell Glessner Company was to be determined by an appraisal? A. Yes, sir.

Q. Did you understand that the same method was to be employed as to the other companies? A. Yes, sir; except the Milwaukee Company.

Q. Mr. Perkins was to get the amount he paid for it? A. Yes, sir.

Q. You had that confidence in Mr. Perkins? A. Yes, sir; I did have that confidence.

Q. Had you known Mr. Perkins before that? A. No, sir.

Q. How was it you had such confidence? A. I was not selling the Milwaukee Company, I——

Q. The one object that your company was interested in was whether you had purchased property for more than its value? A. Yes, sir.

Q. You were interested in not buying any gold bricks? A. Yes, sir; quite true.

Q. You said you knew there was to be an appraisal on these other companies deals, outside of the Milwaukee Company? A. Yes, sir.

Q. Although as to the Milwaukee you did not know whether there was to be an appraisal or not? A. I was told it was not and it proved subsequently it was not.

Q. At all events there was paid three million dollars for the Milwaukee Company? A. Yes, sir.

Q. And they agreed that no appraisal was necessary for it? A. I made no objection to it.

Q. You heard no objection? A. No, sir.

Q. Well from the first you have been a director of the International Harvester Company of New Jersey? A. Yes, sir.

Q. Did you continue to give your personal attention to your plant in Ohio for the first year? A. For the first year.

Q. Where were your proceeds turned over? A. To the International Harvester Company.

Q. When did you become stockholder or director in this defendant company? A. As soon as it was formed, as soon as its name was changed.

Q. The stock of that company all belongs to the International Harvester Company of New Jersey? A. Yes, sir.

Q. It maintains a selling company for Missouri? A. Yes, sir.

Q. Does the International Harvester Company of America sell everywhere? A. Yes, sir.

Q. The International Harvester Company of New Jersey does not sell to retailers or to patrons? A. No, sir; not harvesters.

Q. Does it anything else? A. Yes, sir.

Q. But it sells its harvesters through the International Harvester Company of America? A. Yes, sir.



Q. The International Harvester Company of New Jersey does not sell any harvesters except to the International Harvester Company of America? A. That is right.

Q. Were the plants of these different companies maintained here in Missouri after its organization? A. You mean the selling organization?

Q. Yes, sir; they ceased to be competitors? A. No, sir.

Q. They were competitors but the proceeds went to the same source? A. Yes, sir.

Q. And the dividends and the profits went to the parties holding it? A. Yes, sir.

Q. And you still describe it as a rivalry? A. No, sir; I would say as far as the farmer was concerned, the competition was not beneficial, they would trade in old machines, they do not trade in old machines now as before and do not cut prices, formerly the farmers would trade in their old machines when it was not necessary for them to buy new ones. It was a gradual decreasing in competition, that bitter talk, one between another does not longer exist.

Q. You would not be understood by the Commissioner as saying that the McCormick and the Deering and the Milwaukee Company and the Plano Company, that the competition existing among these companies was not decreased by reason of this organization? A. No, sir; I would not.

Q. You would say it was decreased? A. Yes, sir; as far as these companies were concerned.

Q. Now Mr. Glessner have you actively been connected with the operation of the International Harvester Company of New Jersey and of America, are you an active man in the business? A. No, sir.

Q. How long since? A. Not very active the last three years.

Q. But up until that time were you actively engaged in its business? A. Yes, sir.

Q. It has been successful? A. Not as much so as we hoped it would be.

Q. It has been as successful proportionately as your business was in the Warder, Bushnell and Glessner? A. As the last year, but not the last five years.

Q. But take the last five years of your business, did you secure as much business as you did under the organization of your company? A. No, sir; I received more from my own company.

Q. You think you have not gotten as much or no more as a return on your own investment as you did personally? A. No, sir.

Q. Your experience was not as Mr. Jones, or the Plano, your business was a profitable enterprise? A. You asked me about the five years. It was decreasing in the last five years, they were decreasing as the injudicious sales were being made and as the cost of material was increasing we found it was difficult to get material at the time we needed it and in order to do that we had to look for sources of supply that belonged to ourselves. These things we had to reckon with, another inducement that I had to join into this sale and to make this sale was that I had these two estates in my business, I had Governor Bush-

nell in the business, who was in politics quite as much as in business and while he was nominally the president of our company, I was the active manager of the company and I felt that if the business went on I would be alone with the whole burden of it in one with the actual administration of it, but also the supplying of the capital and Governor Bushnell was somewhat another man than I, and has since died, and I have congratulated myself since his death, that I sold as I would have had a third estate in my business.

Q. So you have no reason to feel dissatisfied that you went into the organization? A. Taking everything I am glad I did so.

Q. You seek to justify this plan of business combination with the circumstances you have mentioned? A. Yes, sir.

Q. Your idea of a law that would prohibit this organization is that it is a wrong one? A. I did not so understand it.

Q. Hon. Selden P. Spencer, counsel for respondent. Objects to the question as the same is a matter of law.

Q. Are you familiar with the profits of your new enterprise? A. Yes, sir; I think I am.

Q. The statement that Mr. Jones made as to dividends is correct? A. Practically so.

Q. How much dividends since its organization? A. Twenty-one and a half million.

Q. And twelve million set aside for surplus? A. Yes, sir.

Q. How much was spent on betterments and improvements? A. I should think, not being absolutely accurate, fifteen or twenty million dollars.

Q. How many new plants have been taken in? A. That I, quite a number of them.

Q. There were six in the original organization? A. Yes, sir.

Q. And seven taken in since then? A. There has been a number.

Q. What is the value of these properties? A. I don't know.

Q. You used a \$60,000,000.00 you got cash for or \$60,000,000.00 worth of stock you got cash for to purchase these other properties? A. No, sir.

Q. How did you purchase them, with the profits of the business?

A. No, sir; part of the profits and part of the surplus we have and the rest were promissory notes.

Q. What is the value of your assets according to your report? A. I don't know.

Q. Do you know whether \$180,000,000.00 would be approximately it? A. No, sir.

Q. You think you have not spent over eighteen or twenty million dollars as to improvements and betterment of conditions? A. Yes, sir.

Q. Do you know how much you have got outstanding due the company at the close of business in 1908? A. No, sir; I do not.

Q. \$40,000,000.00 too much for it? A. I don't know as I could tell about that, I could not tell about that.

Q. What were your dividends in the year 1907? A. I think about two and five-eighths per cent.

Q. That would be \$4,200,000.00? A. No, sir.

Q. Why is it your annual report shows you paid \$4,200,000.00 dividend? A. That included four installments and only three were paid during that year.

Q. You mean you paid out dividends in the report you had not paid out? A. No, sir; we paid them later, had not paid them out.

Q. The different machines that were being manufactured by the six different companies were continued by the International Harvester Company of New Jersey? A. Yes, sir.

Q. Under the same patents? A. Yes, sir; and some additional patents that have been since then obtained.

Q. You manufacture the same reapers you did then? A. There is the McCormick, Deering, and the Warder, Bushnell, the Plano and Milwaukee.

Q. You mean five where you have been saying six? A. Yes, sir.

Q. What was the first company taken in after the consolidation, the Osborne Company? A. Yes, sir.

Q. That was the sixth you had in mind? A. I suppose so, yes, sir; I did not have in mind any particular, you asked me six.

Q. I think Mr. Jones spoke of six, the way we got started on that number. You continued to use your advertisement under the same general form as before? A. Yes, sir.

Q. You advertised the Champion reapers and the Plano's and the Milwaukee and McCormick? A. Yes, sir; all under the manufacture of the International Harvester Company of New Jersey.

Q. Prior to 1902 when this fierce competition existed for business you formerly cut the list price of your reapers? A. We did not do it, the local agents did it.

Q. That is they had so much profit over the price you made to them? A. Yes, sir.

Q. And the competition was so keen they cut their commission to the farmer to make the sale? A. They very frequently did that.

Q. Did you not sometimes cut to the local agent in order that he cut? A. I could not say, we did not.

Q. You could not say the others did not? A. No, sir; our business was to do as much as we could.

Q. You had the system of taking in old machines at swollen prices? A. Yes, sir.

Q. That was an abuse to get business? A. Yes, sir; the local agents sometimes took them themselves.

Q. After the consolidation you ceased to take in old machines? A. It was a very great advantage to the local agent, the local agents very heartily coincided with us in stopping the taking in of old machines.

Q. They liked that? A. Yes, sir.

Q. You don't know how the farmer liked it? A. I think he is quite as well served as he had been. Whether he liked it or not he had advantages he never had before.

Q. What were they? A. He gets his machines more promptly and gets them cared for better and the repairs are better, and he can

get them more promptly. You know a delay of twenty-four hours in harvest time is a very great inconvenience, when there is a break down in his machine he cannot cut another spray of grain until he gets that fixed, if he has to wait until repairs come from Chicago or some other destination, it makes it worse, if he is delayed that much he may lose his entire crop by it, but if he has these parts where he can quickly get them, as has been the case since the consolidation, very much more than before the consolidation, he is that much better off and the farmer is better off because he is not now almost forced to buy machines before he needs them.

Q. You think the competition was so vigorous before 1902 they compelled farmers to buy machines he did not need? A. Yes, sir.

Q. And since then there has been no effort to force him to buy without he needs them? A. We have no army of canvassers to force him to buy.

Q. You do not mean to say, that with the keen rivalry prior to 1902, that you could not get them as quick as since? A. He could not get his machines taken care of as he wanted to, he could not get his repairs as promptly.

Q. Was that not a part of the organization of the business that each house furnish the supplies? A. Yes, sir; he had to send further for them, and could not get them as promptly.

Q. Were they not kept by local agents? A. Yes, sir.

Q. You still have your local agents? A. Yes, sir.

Q. In a town like Mexico, Missouri, you will have another dealer handling the Champion from the Deering? A. Yes, sir.

Q. And only one will carry the repairs for the Champion? A. Yes, sir.

Q. And another one will carry for the Deering? A. Yes, sir.

Q. That was the same system? A. Yes, sir. We had a larger supply of repairs now than then. We have a hundred dollars worth now where we had ten then.

Q. That would depend on the individual? A. No, sir.

Q. Since the consolidation you have placed a considerable larger amount of supplies? A. Yes, sir; we are able to do that. We could use capital we never had before.

Q. You think that is an advantage? A. Yes, sir; a very great advantage.

At this point a recess was ordered taken by Honorable Theodore Brace, Commissioner, until 2 o'clock p. m.

Afternoon session 2 o'clock p. m.

#### CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. Mr. Glessner did I understand you to say that the dividends paid by the International Harvester Company of New Jersey for 1903, was three per cent on the capital stock? A. Yes, sir.

Q. And for the years 1904, 1905 and 1906, was four per cent? A. Yes, sir.

Q. And for the year 1907 paid in that year two and five-eighths per cent? A. Yes, sir.

Q. Is it a fact that the dividends that were paid plus the surplus which the last statement shows to be about \$12,000,000 represents the entire gain, profit, and increase of the company from the time of its organization to the time of the statement of the present time? A. Yes, sir.

Q. That is a fact? A. Yes, sir.

Q. In other words while the assets of the Company in the statements aggregate some large amount you do not remember but something over the original capital stock, the liabilities against them are such that the \$12,000,000.00 of surplus plus the dividends actually paid represent all the profits of the company for the five years? A. Yes, sir.

Q. What was the agricultural condition of the country during that five years? A. The conditions were the finest that have been ever in my recollection.

Q. How long does that represent? A. Runs back until 1863.

Q. That is, during the five years, according to your recollection, the past five years have been the best for the farmers? A. The farmer had good crops, large crops and got high prices.

Q. You would say the condition of the farmers, the past five years was the best you have known in your life time? A. Yes, sir.

Hon. Theodore Brace, Commissioner:

Q. You mean since 1863? A. Yes, sir.

Q. The business of the International Harvester Company of New Jersey is entirely with the farmer? A. Ultimately, entirely with the farmer.

Q. During these five phenomenal years, five years of agricultural prosperity the lines of the company equal according to your tabulation between five and six per cent on the capital stock of the company? A. Yes, sir.

Q. Now Mr. Glessner, the capital stock of the company represented I believe first, \$60,000,000.00, the actual cash that was put in? A. Yes, sir.

Q. Then what was the other \$60,000,000.00? A. Represented by plants, actual material and actual property.

Q. Actual material and actual property? Property worth a great deal more money than the \$60,000,000.00? A. Yes, sir.

Q. Am I right when I say that my understanding is of the fact, and your testimony is, that the original company had \$60,000,000.00 of its capital paid for in actual cash in its treasury? A. Yes, sir.

Q. And then they had \$60,000,000.00 of its capital stock used for tangible property, plants, machinery, tools, material, products, tangible property of the properties which were bought and that aggregate of the value of these tangible properties was much in excess of \$60,000,000.00? A. Yes, sir.

Q. Do you know how much in excess? A. In the neighborhood of \$20,000,000.00.

Q. So that according to your understanding there was actually something like \$80,000,000.00 of actual tangible property the actual value about \$80,000,000.00 turned over to the company in payment of \$60,000,000.00 of stock of the company? A. Practically that.

Honorable Theodore Brace, Commissioner:

Q. This \$60,000,000.00 cash was produced by stock of the company, of the consolidated company that was sold or were the stockholders ever paid any of this cash? A. The stockholders were those who held the stock by reason of the purchase, some by reason of holding the properties and some capital from the outside.

Hon. Theodore Brace, Commissioner:

Q. Could you give the proportion of the outside cash that went to? A. About \$20,000,000.00.

Hon. Theo. Brace, Commissioner:

Q. The other \$40,000,000.00 came from the stockholders of these one or six companies? A. Yes, sir; of the four companies.

Examination resumed by Hon. Selden P. Spencer, counsel for respondent:

Q. I understood you to say of the \$60,000,000.00 of the cash in the treasury of the International Harvester Company of New Jersey payment in relation to the capital stock, \$20,000,000.00 came from those which were not connected with the International Harvester Company, Mr. Perkins or those he interested? A. Yes, sir.

Q. That was new outside capital? A. Yes, sir.

Q. That had never been in the harvester business before? A. Yes, sir.

Q. I understand that the properties, these properties were purchased in addition to giving actual stock for tangibles, actually subscribed for the International Harvester Company of New Jersey to be paid for in cash, and that the aggregate of those subscriptions was something like \$40,000,000.00? A. Yes, sir.

Q. Was that \$40,000,000.00 actually paid for in cash? A. Yes, sir; it was.

Q. Mr. Glessner previous to 1902 you described the competition that was general throughout the United States in the harvesting machine business, I want to ask you a little more about it. What was the nature of that competition? A. Well it was to affect sales primarily and incidentally or indirectly to prevent somebody else from making sales.

Q. You are aware as a matter of general information of the competition that exists between different stores or between different manufacturers in order to sell their goods, was the character of competition that was in vogue prior to 1902? A. No, sir; I think in the Harvester business there was a competition never known in any other business in the world.

Q. What way? A. We did everything, we could possibly do that would prevent our neighbor from making a sale. We had a very large number of salesmen out on salary and these men of course were in-



structed that they had to produce results, if they did not get results we did not want them, they would do anything, it did not make any difference what it was to make a sale. It had been the custom to make a house to house canvass to find out who would probably want machines, as quick as one man would sell a machine his neighbor or competitor would follow after him to get the purchaser to give up that machine and take another one. The result was there were field trials which would not give the order to the most successful machine, but to the agent who made the most promises, I know when I was in competition I naturally would show my machine off the best I could, I naturally thought my machine was the best and the farmer said it was the best, but he said I cannot afford to take your machine because this other man says he will take \$15.00 discount and then I said I will make \$15.00 discount "then the other man said 'I will take off ten more'; then I made it ten more;" and it kept up until he got the price down less than half so the farmer said finally "I will take them both."

Q. So the actual sale resulted in him getting both machines less than the cost of one machine? A. Yes, sir.

Q. Was that a common occurrence? A. Yes sir; that was not an uncommon thing, they did not generally take both machines but they got the price down until the man that would make the lowest price got the sale.

Q. The competition was as much to knock out the other fellow as selling the machine. That was true, was it? A. Yes, sir; for I know if I was in a town and I had a good trade and if somebody came in to take it, ordinarily I did not undertake to defend myself there, but I went to other towns to knock him out where he had a good trade and he would call his canvassers off to that place and I would try to get at him. The result was the satisfaction of preventing the sale of another machine, it was that satisfaction as much as selling my own machine.

Q. So then the result as you say, was the satisfaction of preventing the sale of another machine as much as selling your own machines? A. It was to me.

Q. You spoke of promising, of promises being made, what promises do you mean? A. By a case of this kind I might sell a machine or my competitor might sell a machine, I would go to this same farmer and tell him I do not want you to take it, it is not good for anything.

Q. After the contract? A. Yes, sir; after he contracted.

Q. The contract was complete? A. Yes, sir; I would try to convince him he was wrong, and I would say in addition to that, you take my machine and I will see you through; I have myself defended farmers under these circumstances; paid the bills myself.

Q. You mean law suits? A. Yes, sir.

Q. After the farmer had made his contract to buy the machine, the other parties would induce him to break his contract and take the other parties' machine under the promise if he was sued for breach of contract the other party would stand all the cost and see him through? A. Yes, sir.



Q. Were you the only man that did that? A. No, sir; by no means. It was not an uncommon thing.

Q. That is the nature of the competition? A. Yes, sir; I am telling you that to show the nature of the competition.

Q. How long had that continued before 1902? A. For a number of years; five to six years.

Q. Was it diminishing towards 1902 or increasing? A. In regard to these injustices in business, they were increasing year by year. And it became more difficult to conduct business.

Q. Of course, the actual cost of selling a machine under these circumstances must have been enormous? A. Yes, sir; very great.

Q. Out of all proportion of conducting a sales department? A. O, yes, sir.

Q. Now, since 1902, do you know what lines of competition there has been in existence; I mean what competitors there have been in existence in the harvesting machine business? A. Well, generally; yes, sir.

Q. Can you give us the names of any companies that were competitors of yours in 1902 that are still in existence? A. Yes, sir; some.

Q. What? A. The Aeme people.

Q. Where are they? A. Peoria, I believe.

Q. The Walter A. Wood people? A. Yes, sir.

Q. What is the output, the strength, as compared with 1902? A. Relatively, it is better than before; I cannot give you the details.

Q. What about the Walter A. Wood? A. It is better.

Q. How? A. They are selling more, and their financial condition is better.

Q. The plant larger? A. They are producing more machines.

Q. Anybody else? A. The Johnston Harvester Company at Batavia. That has increased.

Q. The Adriance Platt Company at Poughkeepsie? A. Yes, sir; I think that was increased considerably.

Q. Do you know the Richardson people? A. Yes, sir.

Q. Were they in existence in 1902? A. Yes sir; I do not believe they have grown very much in this country, but in the east.

Q. Do you know the Seiberlings? A. I knew Mr. Seiberling; I don't know that company.

Q. In other words, looking at the Harvester Machine business as an entirety, are the companies in existence in 1902 stronger or weaker competitors now than in 1902? A. They are stronger now.

Q. How about the number? A. About the same; two failures since 1902; one has gone out of business entirely, one has reorganized and stronger than before.

Q. How about the failures before 1902? A. From the beginning, from the formation of the business in 1849 or '50, there were a great many, at one time, I think in 1878 or 1879, I made up a list of the Companies that had failed. I think it was something over 200 at that time.

Hon. Theodore Brace, Commissioner:

Q. Two hundred had failed? A. Yes, sir.

Q. How about the ten years immediately preceding 1902, between

1880 and 1902? A. There were quite a number that had failed; if they had not failed they had abandoned their business because it was unprofitable.

Q. How about it as you come to 1902? A. More of them.

Why? A. The business was not profitable.

Q. What was the reason of the bad business? A. The reason of the bad business was poor management and the fact that the cost of manufacturing and selling was constantly increasing.

Q. Between 1902 and 1907, how has the cost of manufacturing machines that has increased also substantially? A. Yes, sir; substantially.

Q. How does the cost of labor compare? A. That has increased.

Q. Was there any increase in prices between 1902 and 1907? A. No, sir; none.

Q. I understood Mr. Jones to testify the only increase in prices for harvesting machines was for the season of 1908? A. Yes, sir.

Q. That he thought would average about five per cent., that on some more, and on some less, but the average would be five per cent.; is that your testimony, too? A. Yes, sir.

Q. Was the competition in agricultural implements, other than harvesting implements, has the competition in agricultural implements other than harvesting, been greater or less? A. I could not say; it is pretty great.

Q. There are many companies that are competing? A. Yes, sir. Hon. Theodore Brace, Commissioner:

Q. In that connection now you spoke of harvesting machines, do you speak of machines that the harvests are gathered with or seeding and those we put in crops with? A. No, sir; I do not speak of those.

Q. That is, you mean principally mowers and reapers and binders? A. Yes, sir; that is what I particularly mean.

Q. When you go outside of that, competition is very much wider? A. Yes, sir.

Q. In some of the further dealings of the crop you do not deal in at all? A. No, sir.

Q. Like the threshing? A. No, sir.

Q. Mr. Glessner, I understood you to say that the first notice that you had of selling your property was a telegram to your associate, Governor Bushnell from New York, sometime in July, 1902? A. Yes, sir.

Q. Was there any correspondence before between your people and your company in New York in regard to that? A. No, sir.

Q. Was there any other telegram except that summoning you to New York? A. No, sir.

Q. I suppose when that telegram was shown you you had an idea it had to do with the purchase of your property? A. Yes, sir; I think the telegram said so. That telegram said to Governor Bushnell they wanted him to come to New York to discuss the sale of his property.

Q. Mr. Glessner, when the tangible property of your corporation was sold, I understood you to say the payment of it was made partly in stock and partly in cash, was that right? A. Yes, sir.

Q. The stock of your corporation was never sold? A. No, sir; never.

Q. That, the stockholders still have? A. Yes, sir; still have.

Q. So the amount you were to receive from the new company was out of the stock you had in the Warder, Bushnell & Glessner Company?

A. No, sir.

Q. It was dependent upon the appraised value of the tangibles?

A. Yes, sir.

Q. I noticed in one or two questions General Hadley asked you that he referred to several things that happened in the combination or in the consolidation, and you generally answered him in that connection; what did you mean by combination or consolidation? A. Did I say it?

Q. I don't know as you said it. A. If I did, it was a piece of unconscious cerebration.

Hon. Theodore Brace, Commissioner:

Q. They have been speaking of your Company as the Warder, Glessner Company; your Coompany is a corporation? A. Yes, sir.

Q. And is a corporation now? A. Yes, sir.

Q. So this stock of the New Jersey Company was delivered to your organization? A. To me, representing them.

Q. Was it delivered to your organization? A. I don't remember.

Q. What became of that stock; was it distributed among your stockholders or are you holding it? A. It was distributed among the stockholders.

Q. When they delivered the cash to you, was it distributed? A. No, sir; in order to carry out the sale of this company, I found it was necessary to eliminate two estates connected with my company; I bought their interests upon terms that were agreeable to them and to me, and consequently I owned their stock.

Q. You became the owner of their stock? A. Yes, sir.

Q. That amount was distributed to you in cash; was it distributed to the stockholders? A. Yes, sir.

Q. It is not held by your corporation as its property? A. No, sir.

Q. Never has been since it was distributed? A. No, sir; not since they obtained it.

#### RE-DIRECT EXAMINATION.

By Honorable Frank Blake, Assistant Attorney-General:

Q. I understood you to say that the total profits of the Company were represented by the dividends paid, plus the surplus; is that right?

A. Yes, sir.

Q. Well, now, did you take into the account the betterments and improvements made to the different plants? A. That is taken in going along. The total amount is the amount distributed in dividends, and the amount left in the surplus.

Q. You testified that the betterments amounted to about \$15,000,-000.00? A. Yes, sir; \$15,000,000.00 or \$20,000,000.00.

Q. Do you know how much money is owing to the company by the Farmers of the country? A. No, sir; they must have a considerable sum.

Q. It would be proper to add that to the dividends and surplus?  
A. No, sir.

Q. State what the liabilities are? A. I cannot tell quite.

Q. Could you approximate it? A. I would not like to.

Q. What became of the bills receivable that were owned by your Company at the time of its consolidation? A. Those uncollected are still the property held by our Company.

Q. You did not turn them over to the new Company? A. No, sir.

Q. Did the other Companies turn theirs over? A. I don't know what they did.

Hon. Theo. Brace, Commissioner:

Q. Some witness testified that the Wisconsin Company turned their bills receivable over? A. The Wisconsin Company must have been, because they were bought outright.

Q. Do you know how much Mr. Morgan and Mr. Perkins made as a profit for engineering this deal? A. Not exactly, but I know by general report about what it was.

Q. How much was that? A. In the neighborhood of \$3,000,000.00.

Q. How did they get their profit from the sixty million dollars, was to be paid in stock, the stock was issued to them? A. Yes, sir; I suppose so.

Q. They did not receive money for it? A. No, sir; did not receive money for it.

Q. Do you know whether the Walter A. Wood sells in Missouri?  
A. I think it does; I don't know.

Q. Does the Acme Company sell in this country? A. I think so.

Q. Has the International Harvester Company of America or of New Jersey any understanding or agreement or arrangement with the Acme Company? A. No, sir; none whatever so far as I know.

Q. Even before the consolidation each Company had what was known as a list price, did they not? A. Yes, sir.

Q. Were these list prices frequently varied? A. Not by the Companies themselves.

Q. By the agents who sell their products? A. Yes, sir.

Q. Was it not the exception when the list price was secured prior to 1902? A. No, sir; I do not think it was the exception.

Q. What is the condition at this time as to the list price? A. That I don't know.

Q. Are they maintained or not? A. I don't know; that is a matter for the general local agent to settle for himself.

Q. At the time the farmer, referred to by you, beat both companies down and bought two machines, were the farmers at that time not receiving the benefit of that competition? A. That one particular farmer got the benefit in that case, but, no doubt, some of his neighbors had to suffer for it.

Q. How did the others have to suffer? A. In every case we endeavored to get the most we could, and the man that was the smartest trader, generally got the best trade.

Q. You also frequently would go away below the list price to sell a machine? A. Yes, sir; in that case we would take the matter in our own hands.

Q. Now, you lopped off this expense, putting men in the field in order to sell your machines, that was quite a saving after the new organization was formed? A. Yes, sir.

Q. That represents quite a good profit for the new Company. A. Yes, sir; that enabled us to pay the greater expenses of the manufacture, due to the increased cost of labor and material.

Q. How about these other companies which were competitors prior to 1902; did they adopt the same methods you had in effect before 1902? A. Yes, sir; to the extent they could.

Q. The Johnston Company? A. Yes, sir.

Q. And the Acme Company? A. Yes, sir.

Q. Did they make any profit? A. My impression is they made very little.

Q. Are you prepared to give the number of competitors on each of the lines manufactured by the International Harvester Company of New Jersey in Missouri? A. No, sir.

#### RE-CROSS-EXAMINATION.

By Honorable Selden P. Spencer:

Q. I understood you to say that the formation expenses were about three million dollars? A. Yes sir.

Q. That come out of the sixty million dollars of stock, that was set aside for the payment of tangible property? A. Yes, sir.

Q. I understood you to say that the tangible properties were appraised at something like eighty millions of dollars? A. Yes, sir.

Q. For which sixty million dollars of stock was pledged? A. Yes, sir.

Q. But before the sixty million was issued for payment, three million dollars was carved out for formation expenses, leaving only \$57,000,000.00 to be paid for the tangible properties. A. Yes, sir; for which three million dollars was to be used for the Milwaukee Company.

Hon. Theo. Brace, Commissioner:

The six million come out of that \$60,000,000.00? A. Yes, sir.

Q. Three million for formation? A. Yes, sir.

Q. And three million for the Milwaukee Company? A. Yes, sir.

Q. And a lot more incidental expenses? So that really both of these items come out of the factories that had sold their properties? A. Yes, sir; they certainly did.

Hon. Theo. Brace, Commissioner:

Q. These agents you spoke of, you spoke of their having salaries; they do not have salaries usually, but generally sell on a commission? A. There were two kinds of agents; the local agents always sold on commission; I should not think one per cent. would be sold any other way, but the traveling agents were on salary.

Q. Did they sell machines to anybody except the dealers? A. Yes, sir; they went and helped the local agents.

Q. He was to represent his Company; he was a representative of the Company to assist the trade and the local agent? A. Yes, sir; we furnished to the local agent, without charge, these men, so they would work much harder.

Q. That is the man that had the salary? A. Yes, sir.

Q. You furnished them with catalogue list of the prices they sold at? A. Yes, sir.

Q. Did you expect them to account for these prices? A. No, sir; but the stipulated prices were furnished them.

Q. They did not appear on the catalogue? A. Yes, sir; anything more they gave was what was left of their commission.

RE-DIRECT EXAMINATION.

By Hon. Frank Blake, Assistant Attorney-General:

Q. Did the competition so existing prior to 1902 result in keeping the prices down in the various companies? A. The list prices.

Q. Yes, sir? A. It has been the habit to keep the prices of harvesting machines as low as possible.

Q. The prices were not so high in 1902 and prior to 1902 as they are now? A. No, sir; they are higher now. Yes, sir; hold on, I am going beyond my depth; they were higher previously, when the first binders were put out; they were from \$300 to \$340 apiece.

Q. How about 1901? A. About \$120.00, from \$110.00 to \$120.00.

Q. How did the prices of 1905 compare with the prices of 1901? A. Generally about five per cent. increase.

Q. Five per cent? A. Yes, sir.

Q. How much did the binder sell for, the 1905 binder, 5½-foot binder? A. The amount we got out of it?

Q. Yes, sir. A. I think we got in cash \$95.00 for the 6-foot. Do you mean what we got out of it, the amount the America Company got out?

Q. How much did the farmer pay for that binder? A. I don't know.

Q. Was there a uniform price at which these implements were sold to the farmers? A. No, sir; I think not.

By Hon. Edgar A. Baneroft, Counsel for Respondent:

Q. You were talking about 1903? A. Hon. Frank Blake, Assistant Attorney-General: I was asking about 1901.

Hon. Theo. Brace, Commissioner:

He was speaking about comparing prices in 1901 and this year.

Hon. Edgar A. Baneroft, Counsel for Respondent:

That is alright.

(Witness excused.)



C. S. FUNK, of lawful age being duly sworn, upon his oath testifies as follows on behalf of the Informant:

DIRECT EXAMINATION.

By Hon. Frank Blake, Assistant Attorney-General:

Q. State your name, age, residence and place of business? A. C. S. Funk; I reside in Chicago; I am general manager of the International Harvester Company.

Q. How long have you been general manager of it? A. Since November, 1906.

Q. With what Company were you engaged prior to that? A. I was with the International Harvester Company from its organization in 1902.

Q. Before the International Harvester Company was organized? A. I was sales manager for the Warder, Bushnell and Glessner Company.

Q. How long had you been with that company? A. Approximately eighteen or twenty years.

Q. Are you familiar with the answer filed by the respondent in this case? A. No, sir.

Q. Did you prepare any table showing the number of competitors on the principal lines of implements sold by the Respondent Company for the counsel in this case? A. I have been asked about the number of competitors; I have no knowledge that any statement was prepared under my supervision, that was used.

Q. My recollection is that Mr. McCormick said that you had prepared this table that is set out on page 16 of the answer. A. I think I can tell if you will let me see it, if I had anything to do with preparing it. You see we have been asked at different times for such information. I don't know what information they have used. This appears to be just the number of the concerns, without itemizing. This shows binders six and mowers six; it represents the number of competitors.

Q. Is this the list you referred to. But to refresh your memory, I will read what occurs previous to this table: "And that there are now in direct competition with respondent in the sale of agricultural implements, tools and machinery in the State of Missouri, the following number of competitors in the following lines of agricultural implements, tools and machinery, respectively, and that substantially such competition was in existence at the time of the said incorporation of the International Harvester Company of New Jersey." Then follows the table. Did they not tell, do they not tell who the people are in each group? A. No, sir; well, I could figure out—

Q. I will ask you then about number one. Number one is binders? A. Yes, sir.

Q. The number of competitors in binders is shown by the answer as six. Now, I will ask you what are the six competitors in Missouri, that is, competitors of the International Harvester Company of America, which sells binders to the people of Missouri? A. You mean at the present time?



Q. Yes, sir; at the present time. A. Well, the Acme Harvesting Company, The Walter A. Wood Mowing and Reaping Machine Company, The Richardson, the Johnston Harvester Company and the Adriance-Platt Company; that is all I recall at the moment. May I refresh my memory here, I have a memoranda, I made some memoranda on that. I have not got the binders.

Hon. Theo. Brace, Commissioner:

Q. How many have you? A. I have four; that is all I recall at the moment.

Q. Are you sure that the Walter A. Wood Company sells binders in Missouri? A. Well, it depends on what you mean by being sure; I have not been in Missouri personally for eight or ten years, I have never seen any sale here; my information and my knowledge, based on my connection with the business is, they do.

Q. Have you any idea as to the number of binders sold by the Companies in Missouri per year? A. No, sir.

Q. Can you give me an estimate of the per cent. of the total number of binders sold in Missouri which are sold by the respondent company? A. That would be a pure guess; it is almost impossible for anybody to know how many binders, to know how many binders are sold in any given state in any one year; we have no means of knowing, we have tried.

Q. How many would you say? A. It would be a pure guess.

Q. I will ask you the question in this way, what proportion of the binders in Missouri were manufactured and sold by the five companies which became members of the International Harvester Company prior to 1902? A. You mean those members that become the members of the International Harvester Company?

Q. The names of the five original companies that went into the New Jersey corporation in 1902? A. Yes, sir; well in 1902 if we take what the Woods, Johnston, Acme and others claim to have sold here that year, and what these five companies actually did sell that year, it would probably be sixty or sixty-five per cent.; of course, I say what they claim to have sold; I have no knowledge.

Q. How many competitors were there in Missouri selling binders in the years 1901 and 1902? A. You mean aside from these five?

Q. No; name all these five. A. Those four I have named and the Champion and Deering and Milwaukee and Plano and McCormick.

Q. Then you would have just the five that transferred their property to the New Jersey corporation and the four that you have named there. These five were selling machines in the State in addition to these four. How about the Osborne Company, were they selling machines in that year? A. Yes, sir.

Q. They should be added also? A. Yes, sir.

Q. Then we should also add the Aultman Miller? A. That is for 1901 and 1902?

Q. Yes, sir. A. The Aultman Miller & Co. were practically out of business; my best recollection is they were in the hands of a creditors committee; I think they sold a small number of machines in both years, probably one hundred binders and two hundred mowers.

Q. This Company had been a competitor prior to 1902, had it not, in this State? A. It had once been a strong competitor from the period of 1885 to 1890. It had been a very weak competitor from 1890 to 1900. It had been a very strong competitor, but in 1900 it was practically out of business, it was practically defunct, we considered them out, we did not consider them at all.

Q. Was the Minnie Harvester Company doing business at that time? A. In 1901 and 1902?

Q. Yes, sir. A. They were all to some extent, as the Buckeye people, they sold—

Q. By the Buckeye Company you mean the Aultman Miller? A. Yes, sir; my best judgment would be that the Minnie Harvester Company sold two or three car loads of mowers, one hundred and fifty mowers and fifty to seventy-five binders in Missouri in each of these years.

Q. The next implement on this page 16 is Number Two, clover bunchers number of competitors, four; do you know how many clover bunchers your Company sells in Missouri? A. That depends on the year; that is an attachment we put on mowers, and a buncher is simply a series of iron fingers that are attached to the cutter bar, to hold the clover to prevent it from simply dropping in a swath as the cutter bar passes through the clover it puts the teeth underneath and bunches it along, until it is tripped by a man on the seat. It is comparatively an unimportant attachment, which is sold in years when the clover crop is heavy, and when it is light very few are sold.

Q. It is not a very expensive implement? A. No, sir; it used to cost the farmer \$12.00.

Q. What were the four competitors in Missouri at this time? A. Well, the main competitor was the American Buncher Company of Indianapolis, Indiana.

Q. Are they still doing business in Missouri? A. I don't know.

Q. What were the other three? A. We only hear of clover bunchers when there is a heavy clover crop.

Q. Were all these Companies that transferred their properties to the International Harvester Company of New Jersey engaged in the manufacture of clover bunchers prior to 1902? A. No, sir.

Q. Which ones were they? A. I am not sure about this; I think the McCormick and the Deering each had one; my Company, the Champion, had a pretty poor one, and only sold a few; I don't know whether the Plano or Milwaukee Company had one.

Q. Did the Aultman Miller have a buncher? A. No, sir.

Q. Did the Minnie Company have a buncher? A. No, sir.

Q. Then these companies which transferred their properties to the International Harvester Company of New Jersey, the three companies named by you, were in competition with each other in the sale of clover bunchers prior to 1902? A. Whenever there was any business.

Q. The next is Number Three, corn harvesters and binders, the number of competitors fourteen. Can you state the names of them? A. That statement is not correct in the general acceptance of the term. There are two kinds of corn harvesters, one is a self-binding machine which binds the corn into bundles the same as grain and another kind

cuts the corn instead of cutting by hand, cuts with a team and does not bind it; and the third kind that cuts it and leaves it in rows or bunches. They are all advertised as corn harvesters. I see this gentleman has a book there; I think you will see all three of these advertised in that and all are included in that list of fourteen.

Q. The grain binder is an expensive machine? A. Yes, sir; cost about the same as a corn binder.

Q. Cost how much? A. About \$125.00.

Q. How much does a corn harvester sell for? A. We sell a corn binder or corn harvester, these machines they sell for \$125.00.

Q. What do you call a corn cutter? A. There are several kinds of corn cutters.

Q. What do they sell for? A. One type, the corn cutter, is a sled drawn by a team of horses and they have a big notch in front of it and there are steel knives and the corn is cut by dragging that sled against the corn. That sells for about \$25.00.

Q. Are there any other companies in Missouri that sell a corn binder? That expensive machinery selling for \$125.00? A. Yes, sir; the Johnston Harvester Company have a corn binder.

Q. Any other company? A. The Wood Company, I think they have one they sold down here.

Q. How many companies of the five which transferred their properties to the International Harvester of New Jersey in 1902, manufactured corn binders? A. They all manufactured them, unless it was the Plano, I am not sure about the Plano, I think they did.

Q. Then the number of competitors in Missouri as to corn binders, was proportionately decreased after the formation of the New Jersey corporation? A. When you are speaking of competitors do you mean the people who were selling them to the agents or the people selling them to the farmers?

Q. I mean every company that sells to the Missouri farmer and has a corn binder on the market in Missouri. You stated all but one or two of the companies taken in the New Jersey corporation in 1902 manufactured corn binders, well these companies were all engaged in business in Missouri? A. Yes, sir.

Q. I presumed they were all selling corn binders in Missouri, to the agents in Missouri? A. Yes, sir.

Q. Now these same agents are all selling practically the same corn binders? A. Yes, sir.

Q. Then this number of competitors, fourteen, which appears on page sixteen of the answer, showing the number of competitors in Missouri on corn harvesters and binders, you state is not correct? A. I say it includes more than you include in your question, it includes two kinds of corn machines, the list is correct but not in the sense you are asking the question.

Q. Is the corn harvester manufactured by the International Harvester Company of New Jersey? A. Yes, sir.

Q. Is a corn cutter manufactured by the International Harvester Company of New Jersey? A. They do not manufacture any cutters.

Q. Then you would not attempt to name the fourteen competitors

that sell corn harvesters and cutters in Missouri? A. I could probably if I thought it up, there are a number of these small concerns.

Q. What proportion of the corn harvesters and binders, which are sold in Missouri, are sold by the International Harvester Company of America? A. I could not tell, I don't know.

Q. Would you think it as high as eighty per cent? A. That would be a pure guess on my part, I have no knowledge on the subject.

Q. The next item is number four, cultivators, seventy-four competitors, what do you understand by a cultivator? A. Well, there are two or three kinds of cultivators, the horse cultivator that is drawn by a team, and the hand cultivator, the International Harvester Company does not manufacture the hand cultivator, and they manufactured a few of the horse cultivators——

Q. A one horse cultivator? A. One and two.

Q. Did you sell many of these to the Missouri farmers? A. No, sir.

Q. They are mostly sold to the Eastern farmers? A. Yes, sir; indeed I don't know as we sold any in this state.

Q. It is rather an insignificant line, these cultivators? A. Yes, sir.

Q. The next item is, cream separators, number five, how many kinds were sold to the implement trade. What is the centrifugal machine? A. It is a separator which throws the milk in one direction as against another machine which throws it in another.

Q. Does the International Harvester Company of New Jersey manufacture centrifugal machines? A. Yes.

A. What is a cream extractor? A. Extracts cream.

Q. That the same as a cream separator? A. Well some people may call them the same, I don't know, I do not remember of having heard that expression before.

Q. Does the International Harvester Company of New Jersey manufacture any cream separators that are not centrifugal machines? A. Yes, sir.

Q. What do you call them? A. Well we have no other expression that would correspond to that, the International Harvester Company manufactures two brands of cream separators.

Q. How much do they sell for? A. It depends on the capacity, they range——you mean to the farmers?

Q. Yes, sir; the retail price? A. They run all the way from \$75.00 to \$210.00, of course some have a larger capacity and separates more cream at a time than the others.

Q. Did all these companies that transferred their properties to the International Harvester Company of New Jersey manufacture and sell cream separators prior to 1902? A. None of them.

Q. That is an added line? A. Yes, sir.

Q. The next item is corn pickers and huskers, four competitors, how many does your company sell in a year? A. We usually divided them into huskers and shredders, pickers is an entirely different machine, the picker is one thing, that is evidently a clerical error.

Q. Did you sell any pickers in Missouri? A. Very few.

Q. Is that an added line, were they manufactured prior to 1902 by any of the companies? A. I think the Deering Harvester Company had a picker in 1901 and 1902, but was not very much of a success, it was a new machine, and an experimental machine.

Q. The machine is still in the experimental stage? A. I think so, our experts do not agree with me.

Q. The next item is corn planters, number of competitors 44, how many corn planters did you sell in Missouri in a year? A. A few car loads, I should think, it is purely a guess.

Q. It is a very insignificant item? A. Yes, sir.

Q. The next is corn shellers, 34 competitors? A. About the same shape as we are on the corn planters.

Q. Very few sold? A. Yes, sir.

Q. A very insignificant line? A. Yes, sir.

Q. Most of these are hand machines? A. Yes, sir. The shellers were an experiment.

Q. They were manufactured by the Keystone Company? A. Yes, sir.

Q. The next is number nine, drills, what do you mean by drills? A. Grain drills.

Q. How many drills are sold in Missouri? A. Do not sell any in Missouri.

Q. Made for sale in Canada? A. Yes, sir; very largely.

Q. The next is feed grinders, how many feed grinders did you sell in Missouri? A. Two or three hundred a year, possibly.

Q. Those the grinders formerly manufactured by the Keystone Company? A. Yes, sir.

Q. The next is gasoline engines, number of competitors 139, I will not ask you to name them? A. I hope you will not.

Q. The next is number twelve, harrows, disk, 64 competitors, springtooth, 39, and peg tooth, 74, total 177, can you tell me the proportion of the harrows sold in Missouri that are manufactured and sold by the America Company? A. Why it would be a pure guess, I have no knowledge, I expect I should say less than forty per cent, twenty-five or thirty-five per cent.

Q. The next is number thirteen, hay loaders, 12 competitors, do you know how many hay loaders you sold in Missouri? A. No, sir; will you pardon me if I make a slight explanation, my ignorance may be surprising as to the number of machines we sell in the state but we account for the machines, of the machines we manufacture by charging them to the general agents when they are shipped, when we ship a car load of machines they are not charged, if we ship them to Maryville, Mo., they are not charged to Maryville but charged to Kansas City. Now these general agents are not divided on state lines, some have parts of more than one state in their territory, we have one at St. Louis and one at Kansas City and one at Quincy, they have territory in different states. Kansas City has twenty or twenty-five counties in Kansas and fourteen or more in Missouri. We don't know where they

are sold, we do not divide them up on state lines, our only records are by general agencies.

Q. The hay loader is a back number, you do not sell many of these? A. Oh, hay loaders, they are still sold, it is not a back number.

Q. That is a part of the Keystone Company, no other company manufactures them? A. No, sir.

Q. Do you know what other competitor your company had in the sale of hay loaders in Missouri at this time? A. Yes, sir; those I recall are the Deere, may be, John Deere Plow Company, and Moline may be, and the Dane of the Dane Mfg. Co.

Q. The number of competitors as given is twelve, you cannot name twelve? A. No, sir; not off hand.

Q. The next is hay presses, 43 competitors, were hay presses manufactured by any of the companies that transferred their properties to the International Harvester Company of New Jersey? A. I think the Deering people had been experimenting, you say tedders or presses?

Q. Presses? A. I think the Deering people experimented with presses and may have sold a few, but not in a large way. That is a line we really added since.

Q. The next is number fifteen, hay stackers, twenty-five competitors, that is a new line with the International Harvester Company? A. Yes, sir; that is a part of the Keystone line.

Q. The next is number 16, headers and combined harvesters, five competitors, did you sell any harvesters, combination harvesters and headers in Missouri? A. Very few.

Q. Did you ever sell one here? A. Do you mean a header?

Q. It is put here headers and combination harvesters? A. These are two separate and distinct machines, I think there have been a few combination harvesters sold, I think no headers, I have never known of any.

Q. Number seventeen, horse power, competitors fifty-five, what is a horse power? A. There are different kinds of horse power, one is the old sweep power where you see one horse going around a threshing machine, where the horse walks round and round.

Q. That has been displaced lately by gasoline engines? A. Yes, sir.

Q. Number eighteen, huskers and shredders, could you give an estimate of the number sold in Missouri last year? A. No, sir; I could not.

Q. How many companies of the companies that transferred their properties to the International Harvester Company of New Jersey were engaged in the manufacture of huskers and shredders prior to 1902? A. Champion and Deering and Plano.

Q. The McCormick? A. I should have said McCormick, not Champion, but Plano and McCormick and Deering.

Q. The next is knife and tool grinders, number of competitors eighteen? A. That is a little machine that is fastened on a mower wheel to sharpen the sickles of a machine, it sells to the farmer for six dollars, that does not amount to much.



Q. They usually throw them in with a binder or mower? A. I don't know what the custom is in this state, that used to be one way of cutting the price sometimes. We do not throw them in.

Q. They do not throw them in now since the consolidation? A. I do not think as much as before, we would have no knowledge of that, the agent pays the company, if he saw fit to cut the price by giving away a grinder instead of making a five dollar cut in the price we would have no record of that.

Q. Manure spreaders, did you sell many of them in Missouri? A. No, sir; not very many.

Q. Does any other company sell many? A. No, sir.

Q. Is there a successful manure spreader manufactured? A. Yes, sir.

Q. Were any of these companies engaged in the manufacture of manure spreaders prior to 1902? A. No, sir.

Q. It is an added line? A. Yes, sir.

Q. Is that a line you got from Kemp? A. We got it from the J. S. Kemp Manufacturing Company.

Q. Of Waterloo? A. The Kemp and Burpee Company is another concern.

Q. The next is mowers, eighteen competitors, that is your principal line, is it not? A. No, sir; I would not say so, it is one of the important harvester lines.

Q. What proportion of the mowers sold in Missouri prior to 1902 were manufactured and sold by all of the companies which transferred their properties to the International Harvester Company of New Jersey? A. I would not be able to answer that definitely, but the proportion was less than the binders.

Q. What is it on, binders? A. I don't know exactly as I say, it would be a pure guess, but I know the per cent. on mowers would be higher.

Q. Can you name the eighteen competitors in Missouri that sell mowers? A. No, sir; there are not eighteen, I think that is a mistake.

Q. The answer shows eighteen. You think it is a mistake? A. Yes, sir.

Q. How many do you think there are? A. I would have to stop and think them all up, I can recall the important ones off hand. Acme, Johnston, Wood, ——— that are selling now, you mean.

Q. Yes, sir? A. The Crown, the Dane, the Koenig-Buckeye, Adriance-Platt, possibly the Wooster-Buckeye, I am not sure about that one, those are the main ones that occur to me at the moment.

Q. Did the McCormick manufacture and sell a mower? A. Yes, sir.

Q. Did the Deering Company sell a mower? A. Yes, sir.

Q. Did the Champion manufacture and sell a mower? A. Yes, sir.

Q. And the Plano Company? A. Yes, sir.

Q. And the Aultman Miller Co.? A. You are talking about this state now?



Q. Yes, sir; or everywhere? A. The Aultman-Miller Buckeye Company.

Q. In what year? A. Prior to 1902? Prior to 1902, immediately prior to that, one or two years as I explained before, they were practically defunct, the trustee or whoever had charge sold a few.

Q. Did the D. M. Osborne Company manufacture and sell a mower? A. Yes, sir.

Q. The next is number twenty-two rakes, forty competitors according to the answer, can you state the number, the proportion of the rakes that were sold in the United States that was manufactured by the International Harvester Company of New Jersey? A. No, sir; I have no knowledge on that.

Q. Is that a small line or a large line? A. That is an important line.

Q. Were all of these companies which I have named that transferred their property to the New Jersey corporation, engaged in the sale of rakes in the fall of 1902? A. I think they all were, I am sure they all were except the Milwaukee and the Plano in rather a small way, I am not sure about the Milwaukee, they were not large enough to manufacture any and the Plano did not have a very good rake, they were not very large in that business.

Q. How many reapers did you sell in Missouri in a year? A. A small number.

Q. They are obsolete? A. Some was made.

Q. What are the six competitors that sell reapers in Missouri, could you name them? A. Johnston, Wood and the Adriance people; I do not think the Acme sells reapers; I am not sure about that.

Q. The next is number twenty-four, sweep rakes, eighteen competitors; what is a sweep rake? A. That is a part of the Keystone line; that is a machine made largely of wood; it is used in gathering up hay.

Q. Did all the companies that transferred their properties to the New Jersey corporation manufacture and sell sweep rakes prior to 1902? A. No, sir; none of them.

Q. Number twenty-five, seeders, thirty-three competitors; do you sell many seeders in Missouri? A. None; none sold in Missouri.

Q. Number twenty-six, tedders, fourteen competitors; how many tedders did you sell in Missouri? A. I could not answer that.

Q. Who are the principal competitors that sell tedders in Missouri competing with your company? A. Oh, there are scores of them; all the jobbers that sell goods out of Kansas City and St. Louis and Quincy; most of them sell tedders of one kind and another.

Q. The next item is twine, number twenty-seven, twenty-five competitors; did the Deering Company manufacture twine prior to 1902? A. Yes, sir.

Q. Did the McCormick Company manufacture twine? A. Yes, sir.

Q. And the Aultman, Miller Buckeye? A. The Aultman Miller stopped making twine when they got into their first financial difficulty.

Q. Did the Osborne Company manufacture twine? A. Yes, sir.

Q. Did the Milwaukee Company? A. No, sir.

Q. Did the Deering Company? A. Yes, sir.

Q. Did the Plano? A. No, sir.

Q. Could you state as to the proportion, what proportion of the twine sold in Missouri in a year is manufactured and sold by the International Harvester Company? A. No, sir; I could not tell that.

Q. Number twenty-eight, wagons, manufactured, 107 competitors. A. I suppose there are 107.

Q. You could not name the principal ones? A. Yes, sir.

Q. Who are the principal ones? A. The Studebaker Mfg. Co., the Moline Wagon Co., the Kentucky Wagon Company, The Shuttler Wagon Company, the Bain, The Mitchell, the Racine, Settly, Stoughton, Tennessee Wagon Company, Owensborough; do you want the rest of them? I could sit here a half an hour and tell you.

Q. You were president of the Weber Wagon Company at one time? A. About a week, as I remember.

Q. Do you remember the date when you became president of the Weber Wagon Company? A. No, sir.

Q. That was one of the companies that was purchased by the International Harvester Company of New Jersey, after it was organized, was it not? A. Yes, sir.

Q. As president of the company you conveyed the property of the Weber Wagon Company to the International Harvester Company of New Jersey on December 15, 1905? A. That is my recollection.

#### CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. The Adriaance Platt Company also manufactured corn harvesters, did they not, or did they? A. I am not sure about that.

Q. The Emerson Manufacturing Company manufactured mowers? A. Yes, sir.

Q. And the Richardson Manufacturing Company? A. Yes, sir.

Q. Did the Rockford Manufacturing Company of Rockford, Ill.? A. Yes, sir.

Q. Did the Janesville of Janesville, Wisconsin? A. I spoke of the Crown Mower, that was made by the Janesville Company, but in the last few years that has been sold by the Thomas Manufacturing Company.

Q. When you speak of harvesting implements, what do you generally include, Mr. Funk? A. Well, in the trade when we speak of harvesting machines, we generally include corn and grain binders and mowing machines and hay rakes, tedders, and all implements which are used to harvest or gather in grain, corn or hay crops.

Q. Do you include the reaper under the mowing machinery? A. No, sir.

Q. Under what general head do you include the reaper? A. The harvesters.

Q. Is it a separate head under the head of harvesters? A. It is one of the harvesting machine family.

Q. Now, as to competition in Missouri and the United States in regard to agricultural implements outside of harvesting machinery, such as you name, is it greater or less at this time, is there more competition in agricultural implements, outside of harvesting machinery, than there is in harvesting machinery? A. Yes, sir.

Q. Like in wagons and gasoline engines? A. What do you mean, what are you talking about?

Q. In harvesting machinery, there is a certain amount of competition you have testified about existing; now, are you talking about the competition— A. Are you talking about competition with the agents?

Q. No, sir; I am talking about the number of manufacturers of these agricultural implements outside of harvesting machines; are there more of them beside the International Harvester Company than there are that manufacture harvesting machinery? A. You had better try it again.

Q. Here is what I wanted to get from you; there is a certain amount of competition in the manufacture of harvesting machinery in Missouri and in the United States today? A. Yes, sir.

Q. That is, there are a number of other concerns, many of which you mentioned that manufacture harvesting machinery, in addition to the International Harvester Company of New Jersey? A. Yes, sir.

Q. And you have named five or six of the prominent ones? A. Yes, sir.

Q. Are there more companies that manufacture agricultural machinery outside of harvesting machinery than those that manufacture simply harvesting machines? A. There are a great many more companies that manufacture plows and wagons; they are very much more in excess.

Q. Than those that manufacture harvesting machinery? A. Yes, sir.

Q. When you get to the things that the farmers use outside of harvesting machines, there are a tremendous number of competitors, are there not? A. Yes, sir; always have been.

Q. Are you familiar with what is known in this record, as exhibit "C," on page 359 of the transcript, as already written up, being a comparison of the prices of labor and the principal materials, used in making harvesting machines, of which I hand you a copy? A. Yes, sir; I am familiar with this statement.

Q. Was it gotten up under your supervision? A. Yes, sir.

Q. Now explain it, Mr. Funk, rather does this, so far as the material is concerned, are these the main materials that go into the manufacture of the things that the International Harvester Company of New Jersey produces? A. Are you speaking of the harvester line or the whole line?

Q. Of the harvester line? A. Yes, sir.

Q. Are there any differences in either lines? A. Yes, sir.

Q. Any material differences? A. Yes, sir; on the whole line,

taking cream separators and wagons and manure spreaders, this per cent. would not hold good.

Q. I am asking you about the list of material, does that include everything that goes into the manufacture of these things that are manufactured by the International Harvester Company? A. No, sir.

Q. What are they? A. There is a very long list.

Q. I mean in substance, what is there besides pig iron, foundry iron and malleable bessemer that goes into the product of the New Jersey Harvester Company? A. Well, let's see; on tedders, for instance, one of the main items of material is what we call square tubing.

Q. Made out of what? A. Iron tube.

Q. It would come under the head of malleable iron or foundry iron? A. No, sir.

Q. Did you make it? A. No, sir; we bought it.

Q. Are the items in exhibit "C" representative of the main materials that go into the main things, that go into the harvesting machinery? A. Yes, sir.

Q. And they are the same materials that go into the manufacture of any harvesting machinery? A. Yes, sir.

Q. Substantially? A. Yes, sir.

Q. What examination did you make to enable you to testify in regard to the correctness of this? A. I personally compared the contracts of purchase for these different items with this statement.

Q. What would you say was the main material in the manufacture of harvesting machinery? A. The main material.

Q. Yes; looking at this list which enters the largest into the manufacture of harvesting machinery? A. Well, steel, iron and lumber.

Q. The average increase of price of steel between 1902 and 1907 was what? A. About twenty-three per cent.

Q. How with regard to iron? A. About fifty-three per cent.

Q. What do you mean by malleable bessemer iron? A. Another kind of iron as against foundry iron.

Q. What was the average increase of iron; would the average increase of iron taken together be fifty-three per cent.? A. Yes, sir; from 1902 to 1907.

Q. What lumber is mainly used in the manufacture of harvester machinery? A. We use a great deal of yellow pine for poles.

Q. More yellow pine than any other? A. No, sir; we use a great deal of hard wood and a great deal of crating and soft wood and pine.

Q. Is there any special character of wood that predominates in amount? A. Well, pole stock, yellow pine, pole stock and hard wood.

Q. What has been the increase in price in that lumber between 1902 and 1907? A. Well, pole stock is over forty per cent. increase and hard wood is about forty-seven per cent.

Q. How has crating increased? A. About sixty-six per cent.

Q. What do you mean by cotton duck? A. Well, you know what tents are made out of?

Q. Yes, sir; and this white duck canvass? A. We use that to make grain elevators, that elevate the grain.

Q. On the machine? A. Yes, sir; on the binder.

Q. Do you use much of that? A. Yes, sir; very large quantities.

Q. How does the cost of that compare in 1902 and 1907? A. About thirty-five per cent. increase.

Q. In the cost of Harvester machinery, I suppose labor is the main item, is it not? A. No, sir.

Q. The material is more than the labor? A. The material is more than the labor.

Q. What has been the increase in the cost of labor that goes into the harvesting machinery between 1902 and 1907? A. Figuring on the basis of an hour charge, that is the accepted way of figuring, it has been about seventeen per cent.

Q. So that so far as the materials are concerned I understand you to say that the increase in the cost of material between 1902 and 1907 has varied between twenty-three per cent. in steel and sixty-six per cent. for crating? A. Yes, sir.

Q. And the average increase of labor has been about seventeen per cent.? A. Yes, sir.

Q. What increase in price between 1902 and 1907 was there in harvesting machinery? A. No increase.

Q. When was the first increase? A. For the season of 1908?

Q. I think some witness testified, Mr. Funk, that the average increase of that was about five per cent. more on some and less on some; how would your testimony be in regard to that? A. I think that is substantially correct; I figured that out once; we figured it about five per cent.

Q. For the year 1908? A. For the season of 1908; yes, sir; the prices put out in the fall of 1907 took effect in 1908.

Q. That was the first and only increase in prices since the formation of the company? A. Yes, sir; the first and only increase since the formation of the company.

Q. Did that increase apply to any other machines? A. There were much larger increases.

Q. That is the increase in prices to which there was the most competition was larger than in regard to harvesting machinery where there was a less number of competitors? A. Yes, sir.

Q. Mr. Funk, how long have you been in this business? A. In the selling and managing?

Q. Yes, sir; in this business? A. About twenty-three years.

Q. Constantly? A. Yes, sir.

Q. Have you been familiar with the departments of manufacture as well as the sale, for twenty-three years? A. No, sir.

Q. During that time, have you become familiar with the manufacture and management and sale? A. Yes, sir.

Q. Is there any line of agricultural implements, including harvesting machinery, sold by the International Harvester Company of America in Missouri today in which there is not active and vigorous competition? A. No, sir; not all of that time.

Q. Has that competition been in existence ever since 1902? A. Yes, sir.

Q. Has it varied during that time? A. Yes, sir.

Q. In what ways? A. It has grown and become stronger.

Q. That is, it is stronger today, this year, than last year, and the gradual tendency is to be stronger? A. Yes, sir.

Q. Is that both by number of competitors and strength? A. It is on some lines.

Q. It is in number in some lines and in other lines it is more in the strength? A. Yes, sir.

Q. How does the machinery made by the International Harvester Company today compare in efficiency with the machines made prior to 1903? A. They are better and more durable machines today than ever made before.

Q. In what way? A. In the materials used and the construction of the machines and the care with which they are built and the manner in which they are finished.

Q. Has that improvement been constant, I mean some every year, or all at one time? A. It has been, I should say, constant; more some years than others, but constant.

Q. But during the five years, between 1902 and 1907, when the prices remained the same, the efficiency and durability and strength of construction has constantly increased? A. Yes, sir.

Q. Can you give us the approximate list of the things manufactured by the International Harvester Company of New Jersey that were not manufactured by any one of the five companies bought out by the New Jersey Company? For example, I think you spoke of cream separators as being something new? A. Yes, sir; the old companies did not manufacture cream separators and the International Harvester Company does, and the same is true of manure spreaders.

Q. Any others? A. Wagons.

Q. Anything else? A. Gas engines.

Q. There is quite a long list of things that are now manufactured and sold that were not manufactured and sold by any one of the companies bought by the International Harvester Company of New Jersey? A. Yes, sir.

Q. Let's have them? A. Sweep rakes and stackers, hay loaders, hay presses and drills, I gave you cream separators.

Q. Yes, sir. A. You got wagons?

Q. Yes, sir. A. Tedders? Seeders, that is all.

Q. That is, these things you have mentioned are manufactured now by the International Harvester Company of New Jersey and sold by the International Harvester Company of America and none of them were manufactured or sold by any one of the five companies that were bought out by the New Jersey Company in 1902? A. No, sir.

Q. That is sold or manufactured by them in 1902? A. No, sir.

Q. Never had been sold or manufactured by any one of these five companies in 1902? A. No, sir.



Q. Why was it that each of the five companies as bought by the International Harvester Company, why it was managed as a division in 1903? A. It would have been impossible to have conducted the business in any other way, each of these companies had its own organization, for instance at St. Louis these five companies each had a branch house with a general agent in charge and an office and a stock of machines and repairs and the field that had been traveled over. It took us a year to merge these organizations and to decide at St. Louis whether the McCormick or Deering warehouse was the best equipped to carry on this business or whether the Milwaukee, Deering or McCormick agent was the best man to carry it on and whose traveling men, and which was the best to represent this company. We would have had nothing but endless confusion if we had attempted in a few months to take five organizations and to try to make one management at once of it.

Q. Were you familiar with that earlier competition, before 1902 that existed between the Harvester Companies in this country? A. Yes, sir.

Q. What kind of competition was it, how far back does your recollection run on the competition line? A. Back to 1888.

Q. That is for fourteen years before 1902, you were familiar with the competition that was existing between the leading Harvester Companies doing business in Missouri? A. Not as much in the first three or four years as I was in the last ten years.

Q. Were you familiar with the conditions during the ten years prior to 1902? A. Yes, sir.

Q. What were these conditions? A. More like Guerilla warfare than anything else.

Q. Illustrate and describe it? A. I was the sales manager of the Champion Company in later years, I know that my efforts were devoted as much to tearing down the other fellows organization as the building up of my own, and I frequently spent several times over the price of a machine trying to make my own machine stick and knock out the other fellows.

Q. The Champion, that was manufactured by the company owned by Mr. Jones? A. No, sir; Mr. Glessner.

Q. Was that competition developing or lessening during the late years before 1902? A. Well it was just like a fire, we were adding fuel to the flames every year.

Q. Can you give us any instance? A. Yes, sir; a good many.

Q. Something that will illustrate the condition of the years immediately before 1902? A. Well one case which occurs to me at the moment in which I was personally concerned was at Shannon, Illinois. The Champion Company had a contract and located a hired salesman at that town to spend his whole time during that season to canvass and sell machines, we paid that man \$90.00 per month and had him there five months, after he had been there four months and during that four months he was reporting sales of machines every week and at the end of four months we discovered that man had been bribed by a representative of another company to throw, as we called



it, to cancel all the orders he had taken for Champion machines and throw them to another concern, and so we, instead of having two car loads of binders sold at this town on the first day of May, 1900, I think it was I went out there and discovered we had not sold one, that all these orders had gone to a competitor, we had paid a man \$90.00 per month and his livery hire and hotel bills to obtain business for the Champion Company, it had all been thrown to one of our competitors. Of course we regarded that even a little bit rank for those times.

Q. Was that illustrative of the nature of the competition or dishonesty of the individuals? A. Yes, sir; wait a minute, this continues if you want to hear it on. I went out there and discovered this man had betrayed my company and I met out there the manager of the competing company and we had some pretty hot words and several of us come pretty near getting arrested and hurt before we got through the argument and I undertook to take my machines away from this dealer, I had with me three fellows who weighed about two hundred pounds a piece and the other fellow had four, I undertook to take my machines out of the house of this local dealer that had betrayed us, he refused to let me have them and we went in to take forcible possession and he locked us in the repair room and we got a pole to break open and the town constable came up to arrest us but the whole thing was settled and they permitted us to remove our machines. I went back to Chicago and I telegraphed in different directions for ten of our best salesmen and I had them there on the ground shortly and I instructed them to cancel every order they could, that was taken by others and not let any farmer who had bought one of those machines take one on his place except ours. We paid several fines, and had fights there and one fellow had five or six machines on his place at one time, we had six or seven livery teams going in every direction, and we cancelled every order that company had taken (if one price would not do it another would), and when we all got done with that, when we got done that fight these two companies had spent the price of three or four car loads of harvesting machines, if each had given two car loads of machines away we would have been better off. At another time in a town adjoining the farm of Cyrus McCormick, the president of the company, we had a field trial at which we were challenged by the McCormick Company, I took ten of my people weighing two hundred pounds a piece to the McCormick people where they were on the ground, but they only had six or seven. We tore the McCormick machine all to pieces and hurt a couple of his men and some of each was scarred up, there was probably five hundred people lined up on the depot platform to see the fight. When we got all done, when we got done each company had spent a thousand dollars. What Mr. McCormick had to show from the trial was a demoralized machine and two men scarred up, and my machine not quite in the same shape and my men not so badly hurt. I could entertain you and tell you about these scraps all day.

Q. Did you sell any machines at that last scrap you just de-

scribed? A. We were not there to sell machines, we were there to skin McCormicks.

Hon. Theo. Brace, Commissioner: I think that is enough illustrations along that line.

Q. Did this competition you have just described, benefit the farmer? A. It did in individual cases, but speaking broadly it did not.

Q. Why? A. Because the farmer was coaxed or persuaded in many instances in parting with an old machine that had only been worn half out and did not buy his new machine enough cheaper to justify his parting with his old machine before it was half used up when he ought to have kept it twice as long. That is to say a farmer who pays \$125.00 for a binder and used it ten years is better off than the farmer who pays \$110.00 for a binder and uses it four or five years. In other words, it costs him more per year to cut his crop, even if he paid a little less money, than if he had paid full price and used the machine twice as long.

Q. I presume the question of repairs would come in? A. Yes, sir; largely, the old companies were concerned in getting their machines into the hands of the men, of a local agent, like a town, Boonville, Missouri, I mention that because it is a well known point. Now the agent at Boonville, the Raders, whom I know very well, these men after getting into a fight with the competitors, selling a machine for \$110.00 could not afford to give the machine the care and attention, not having gotten the profit he should, as if he had gotten full price and could afford to carry repairs there to keep it in shape and to go and attend to it when the farmers got into trouble.

Q. The competition did not affect the farmers or dealers? A. I say it was of no benefit to the farmer.

Q. Nor of the agent either? A. He always got the worst of it!

Q. And the company? A. We always get the worst of it. Now where the local dealer spends \$5.00 in livery and \$5.00 in canvassing expenses and a lot of money for other things, after making a twelve dollar profit, has he made anything where the company spends a dollar and twenty cents to get a dollars worth of business? He has not gotten anything, it is eaten up with livery and hotel bills.

Q. What would have been the effect of the continuation of such business? A. I served notice on Mr. Glessner, who was here this morning, my vice-president, I served notice on him either two or three years before he sold out, I think in 1901, that we could not survive the conditions very long, it was only a test of endurance and only a question of time that these fellows would be out of business.

Q. Now how was that with regard to the McCormick or Deering or Plano people? A. The McCormick and Deering People were larger and had more capital, and could stand it longer. It was only a question of time of course that these three small concerns would last.

Q. That they would be the first wiped out? A. Yes, sir; as others had been wiped out, the field then would have been wiped out and left the McCormick and the Deering with the field left to them to see who could stand it the longest.

## RE-DIRECT EXAMINATION.

By Assistant Attorney-General Frank Blake:

Q. Would not that Guerrilla Warfare and competition, would it not be just as liable to occur with the Johnson or Acme or Walter A. Wood as it did happen with the companies you spoke of a while ago? A. No, sir.

Q. Why? A. Because the companies who are active and aggressive always draw the fire of the others. The Wood and the Johnston and these other concerns were not as aggressive, and they picked their territories, these five companies were every where, it was a matter of pride and policy with us to be represented every where. The Johnston and the Wood, the few you spoke of had considerable trade in the east where the competition was not quite as fierce and they could pick out localities where conditions were favorable to them. They operated more where conditions were more favorable.

Q. Is that the way they operate now? A. No, sir; since 1902 or 1903, since the conditions have become more stable all over the country of course they have taken advantage of the opportunity to go other places they did not run into the warfare.

Q. Then you did cut prices on your machine when you were with the Champion people to get business? A. Yes, sir.

Q. Was it the exception rather than the rule that the list price was obtained? A. You say "We" do you mean the local dealer?

Q. You were working for the Champion people? A. Yes, sir.

Q. What proportion of your sales were made at the list price when you were with the Champion Company? A. That would be a guess.

Q. Was not the list price more frequently varied from than secured? A. Well, you see the company in the first place, had no means of knowing at the time these sales were made what the prices were, the agent made the sales and prices, the company made it to the local dealer and he made it to the farmer.

Q. Was there a uniform price to the dealers at that time? Before the International Harvester Company of New Jersey was organized? A. No, sir.

Q. You sold the machines for what you could get? A. We had a list price but it was varied from, in certain conditions.

Q. Is this list of implements set out on page 16 of the answer the list of all machines manufactured by the International Harvester Company of New Jersey? A. I think so, I do not miss any, I do not recall any.

Q. Does it contain any implements you do not manufacture? A. You mean manufacture and sell some place?

Q. Yes, sir? A. I do not think so.

Q. You testified a while ago that it contained some you did not sell in Missouri? A. Yes, sir; but I say we sell some kinds of implements we do not sell in Missouri.

Q. You do manufacture and sell all these implements somewhere? A. Yes, sir.

Q. I do not believe I quite understood your testimony, when you marked out certain implements scheduled on that list as not having been manufactured or sold previous to the organization of the International Harvester Company. Did you not mark out some on that list that were not manufactured prior to 1902? A. Yes, sir; there are some implements that these five companies did not manufacture prior to 1902. I have got a list of those.

Q. I could not quite reconcile that statement with the allegation in the answer that they are in direct competition, the following appears "the following numbers of competitors in the following lines of agricultural implements, tools and machinery, respectively, and that substantially such competition was in existence at the time of the said incorporation of the International Harvester Company of New Jersey." There was no competition on these particular lines that you have enumerated and which were not manufactured prior to 1902, was there? A. In Missouri?

Q. Any where? A. Well I think as you read that that is a mistake.

Q. The allegation in this answer is a mistake? A. As I understand you to read it, it does not state a fact.

Q. That is what I want to understand. The increase in prices of the machines you state was caused by the fact that there had been an increase in the price of materials, have these prices of materials decreased since this list was made up? A. Yes, sir; somewhat, a little, not very much.

Q. How much had the decrease been in pig iron? A. Probably ten or twelve per cent.

Q. How much has the decrease been in steel? A. Possibly five per cent.

Q. Are you speaking of pig iron, malleable iron and bessmer, it is scheduled here number two, foundry iron, has there been a decrease in that? A. Yes, sir; I should say, well I can tell, I think I have some figures if I could refer to it.

Hon. Theo. Brace, Commissioner: This was made out when? A. In December, 1907. I should say from twelve to fifteen per cent. less.

Q. Do you know when this list was prepared Mr. Funk? A. Yes, sir; that list was prepared along in the summer of 1907, about the time or shortly after we had made our contracts.

Q. It was prepared then before the slump of 1907 in steel and iron, was it? A. The slump as you call it come a way long in the fall after all these contracts had been placed, after we had bought these materials at a higher price. The slump occurred before the new prices become operative.

Q. It became operative in Jan., 1908? A. Yes, sir.

Q. And the slump in prices, in steel, iron and lumber occurred just previous to January 1st, 1908? A. Not very much of a slump, the slump after January, 1908, was very much heavier than before January, 1908. There was some softening of prices in January, 1907, but that was before we had bought.

Q. If prices had remained the same, the machines would have remained the same? A. It would have been absolutely necessary to get more if we had wanted to make over six per cent on our investment.

Q. What effect will the slump or depression in pig iron have upon the future prices of your machine? A. That is a conclusion which is hard to arrive at, there are so many elements. You see it is not fair to take for instance, the lowest price at which pig iron reaches in the year and say that is a price for that year, for it may only be there for two weeks and in the meantime if you have bought your whole seasons material and it stays there and goes up again, and after it raises you are forced into the market, that low dip in the market does not help your case. It is a matter of mathematical calculation as to what the prices you had to pay are, not as to what is quoted.

Q. When do you buy the material that enters into the construction of the machines that are sold in 1908? A. Contracted along in May, June and July, 1907. You see possibly I ought to explain a little about the methods of manufacturing machines, it is necessary for us in order to provide machines for the crop of 1908, when the crops are ripe that they should be ready and on the ground in Colorado and other states where they use them, we have to have these machines completed in the spring of 1908, that compels us to begin manufacturing them in the fall of 1907, and the product of 1908, is made out of material which is purchased in 1907, and usually worked up in the fall months of 1907 and the early spring months of 1908.

Q. Are Binder covers included in this list? A. It is a piece of canvass what you would call a canvass five by fifteen feet which sells for \$2.15 to the agent, it covers up his machine to keep out the dirt.

Q. What is a transport truck? A. Two iron or steel wheels, 40 inches I think, a tongue and a cross piece to put the binder on to transport it down the road.

Q. Does your company manufacture them? A. Yes, sir.

Q. What is a Hemp Reaper? A. Hemp Reaper?

Q. Yes, sir? A. I never saw one.

Q. What is a Corn Shocker? A. A new machine just in process of development which is supposed to travel down over the field and cut the corn like a corn harvester, and cut a row of corn and form it into a shock, tie a piece of cord around it and deposit it on the ground, but shocks it as a man would shock it. There are a great many other small implements such as I have enumerated that are not included in your list, we do not call these implements, we call them accessories.

Q. What are your principal lines? A. Binders, mowers, reapers, hay rakes, tillage implements, tedders, wagons, manure spreaders, engines, cream separators and twine.

(Witness excused.)

Attorney-General Herbert S. Hadley, counsel for Informant:

We will ask you Judge Spencer, to produce the contract made by Wm. C. Lane with the Milwaukee Harvester Company for the purchase of their plant by the International Harvester Company.

Honorable Selden P. Spencer, counsel for the Respondent:

If we have one General Hadley, we will produce it, however, I do not think there is one in existence.

Assistant Attorney-General Frank Blake, counsel for Informant:

We will also want a copy of the contract made by and between the Warder, Bushnell & Glessner Company, with Wm. C. Lane for the property of the Champion Company by the International Harvester Company of New Jersey, the same to be inserted into this record by the stenographer at the request of the counsel for Informant and by order of the Commissioner, Honorable Theodore Brace.

Said copy as requested here appears in words and figures as follows, to wit:

### COPY.

AN AGREEMENT, Made and entered into this 28th day of July, nineteen hundred and two, by and between the WARDER, BUSHNELL & GLESSNER CO. (hereafter called the "Purchaser"), party of the second part.

WHEREAS, The Vendor is a corporation duly organized and existing under the laws of the state of Ohio, and owns certain manufacturing properties located at Springfield, Ohio, and employed in the manufacture of harvesting machinery and other properties intended for the use in connection therewith; and

WHEREAS, The Purchaser desires to acquire said properties and intends, upon the acquisition of said properties, to sell, convey and transfer the same to a corporation now existing or hereafter to be organized under the laws of the state of Illinois or other state (hereinafter called the "Purchasing Company"), with capital stock as hereinafter provided:

NOW THIS AGREEMENT WITNESSETH, That the parties hereto have agreed and covenanted as follows:

FIRST. The Vendor agrees, for the consideration and upon the terms hereinafter stated, to sell, assign, transfer, convey and deliver unto the purchaser, his nominee or assign, by good and indefeasible title, free and clear of incumbrances, indebtedness and liabilities, except as herein stated, and the purchaser agrees to purchase, all and singular the real estate, factories, plants, buildings, improvements, machinery, patterns, tools, apparatus, fixtures and appliances of the Vendor, and all the patents, inventions, devices, patent rights, licenses, trade-marks, trade-names and good-will of all and singular said property as a going concern, and also all of the products manufactured and in process of manufacture, materials, supplies and merchandise on hand at the time of closing said sale and all and singular its then pending contracts for the purchase of property or materials or the sale of product; as well as all other property of the Vendor appertaining to the Vendor's business aforesaid. There shall also be sold and purchased with said properties \$1,000,000 (at face value and accrued interest) of bills and accounts receivable representing sales made by the Vendor. Such bills and accounts receivable are to mature prior



to March 1, 1905, and are to be guaranteed as hereinafter provided. Cash may be substituted for the whole or any part of such accounts and bills receivable at the option of the Vendor.

**SECOND.** The Vendor agrees that, as soon as practicable after the execution of this instrument, it will, in pursuance of due authority to be conferred by the vote or consent of all of its stockholders, duly execute and acknowledge, and cause to be forthwith deposited with J. P. Morgan & Co., or a trust company designated by them, as depository, proper deeds and other instruments of conveyance and sale for the granting, conveying and transferring as aforesaid unto the purchaser and his assigns, all the property hereinbefore recited together with evidence of the vote or consent of the stockholders of the Vendor as aforesaid. Such depository shall hold the said deeds and other instruments in escrow and deliver the same to the Purchaser or upon his order only upon receiving for account of the Vendor the consideration hereinafter provided, and upon the performance by the Purchaser of the provisions hereof.

**THIRD.** The Vendor agrees to deliver to said depository as soon as practicable full statements in respect of its property and its assets and liabilities, its contracts for the purchase of materials and other property and for the sale of its manufactured products and otherwise relating to its property and business. The Vendor agrees that, pending the performance of and while this contract is in force, it will not, without the written consent of the Purchaser, or of said Purchasing Company, enter into any new contracts or assume any new obligations or make any purchases or sales except such as are necessary and customary in the ordinary conduct of its regular business or to maintain it as a going concern and except such as may be necessary for the performance of agreements already entered into; nor make payments in advance of their maturity on pending contracts. The Vendor further agrees that during and while this contract is in force, no increase shall be made in its capital stock or in the capital employed in its business, and no bonds issued, and that no mortgage, lease or conveyance shall be made upon or in respect of its real estate or plant without the written consent of the Purchaser; and also that in case of any difference of opinion between the Vendor and the Purchaser in relation to the conduct of the business of the Vendor, such difference shall be decided by J. P. Morgan or George W. Perkins, whose decision shall be final. All service contracts of the Vendor taken over by the Purchasing Company shall be terminable on sixty days notice unless in specific cases otherwise determined by said Purchasing Company against any claims under profit sharing contracts. In the case of any property delivered to the purchaser by the Vendor which is subject to incumbrance, the amount of the incumbrance shall be deducted in determining the value thereof.

**FOURTH.** The Purchaser and said Purchasing Company and his or its nominees, the appraisers, accountants and counsel, shall have the right to examine the deeds and other instruments of conveyance and transfer so to be deposited by the Vendor with the depository as aforesaid, and shall, if the purchaser shall so require, be furnished

with abstracts of title, title deeds and surveys which may facilitate the examination of the title to the property to be conveyed or transferred, and shall have free access to all the deeds, contracts, books and records of the Vendor for the purpose of examining and verifying the statements made with respect to its property, business, assets, liabilities and corporate status.

FIFTH. The purchase price to be paid by the Purchaser to the Vendor for all and singular said property shall be the aggregate of the several appraisals and valuations hereinafter provided for and of said accounts and bills receivable and cash, if any, and shall be payable in full paid and non-assessable shares of the capital stock of said Purchasing Company, taken at par.

In order to make such appraisals and fix and determine such valuations, the property of the Vendor shall be classified as follows:

(1) Real estate, buildings, factories, warehouses, fixtures, machinery, tools, patterns, drawings, moulds and all other personal property used in connection with or appertaining to the Vendor's business and which is not intended for sale in the ordinary course of business or to form part of or to be consumed in the manufacture of the Vendor's products, and including pending contracts for purchase of real property and for construction of buildings or fixtures, but not including the property and contracts otherwise classified. The assets of this class are hereinafter collectively designated as "Plant."

(2) All materials on hand, manufactured, unmanufactured or in process of manufacture, including any and all articles intended to form part of or to be used in manufacturing the Vendor's product. The assets of this class are hereinafter collectively designated as "Materials on Hand."

(3) Unexecuted contracts or orders for the sale of the Vendor's manufactured products, but not including contracts or orders for deliveries after the year 1902, for which latter contracts and orders (although to be transferred), no allowance shall be made. No allowance shall be made for contracts or orders for delivery prior to January 1, 1903, unless the material necessary for the completion of the machines or other manufactured products shall be in the possession of the Vendor and upon its plant at the time of the appraisal. Such contracts are hereinafter collectively designated as "Pending Sales."

(4) All contracts heretofore entered into by the Vendor for the purchase of material to be used in the manufacture of its products. Such contracts are hereinafter designated as "Material Contracts."

(5) Patents, patent rights, devices, inventions, licenses, trademarks, trade-names, and good-will, including the value of the established business, name, standing in the trade, stability of business, organization, trade and custom as a going concern. Such assets are hereinafter collectively designated as "Patents, Good-will, etc."

The value of the plant, as above defined, shall be ascertained and determined by three appraisers, who shall fix the present value of such plant as a going concern. One of such appraisers shall be nominated and appointed by the Vendor, and the other two by J. P. Morgan & Co.

The present value to a going concern of said materials on hand, of the said pending sales, and of the said material contracts as above defined, shall similarly be determined by three appraisers, one to be nominated and appointed by the Vendor and two by J. P. Morgan & Co. Such appraisers shall make allowance in their judgment for unprofitable contracts.

The value of the patents and good-will shall, for the purposes of this contract, be a sum equal to the net profits of the Vendor during the two years ending November 30, 1902, as ascertained in the manner hereinafter provided, plus ten per cent. thereof; and to such amount shall be added the value of the same, standing in the trade, stability of business, organization, trade, custom, etc., of the Vendor as a going concern, which value shall be fixed by J. P. Morgan or George W. Perkins in his sole discretion.

The profits for said two years shall be ascertained and reported to J. P. Morgan & Co. by three accountants, one of whom shall be nominated by the Vendor, and two by J. P. Morgan & Co. In calculating the net profits of the business, there shall be excluded all allowance for interest on bills and accounts receivable as well as the cost of collecting bills and accounts receivable. Said accounts in calculating the net profits for said two years, shall make allowance for depreciation or loss, if any, on bills and accounts receivable, for depreciation or loss, if any, on materials on hand, and for depreciation, if any, of the said plant from wear and tear or otherwise. In each case hereinbefore enumerated, the decision, appraisal or report of a majority of the appraisers or accountants or the decision of J. P. Morgan or George W. Perkins (if sole arbitrator or appraiser), as the case may be, shall be binding and conclusive upon the parties hereto.

SIXTH. Payment of the amount of all contracts or orders for sales of manufactured products included as assets of the Vendor as aforesaid and transferred under this contract, shall be guaranteed to the satisfaction of J. P. Morgan & Co. by the Vendor and the net value thereof shall be appraised on that basis. Any and all accounts and bills receivable transferred by the Vendor hereunder shall be taken at their face value and accrued interest to date of transfer; but the Vendor shall guarantee and hereby does guarantee that the purchaser of the Purchasing Company shall realize thereon such face value and interest accrued and to accrue, and that said principal and interest shall all be received on or prior to the first day of March, 1905. The collections shall be made by the Purchasing Company, but the expenses of collection shall be borne by the Vendor. Pending such collections, the Vendor agrees to advance and pay to the Purchasing Company on demand, from time to time, on account of such guaranty such amounts as the board of directors of the Purchasing Company may determine to be necessary or convenient for the conduct of its business, but not in excess of such amounts as J. P. Morgan & Co. may from time to time approve. If such advance payments be made by the Vendor, then the Purchasing Company shall transfer to the Vendor or its nominees an equal amount in principal and accrued interest of uncollected accounts or bills receivable of the earliest

maturities. The Purchasing Company may take such measures as to it may seem wise, for the collection of the accounts and bills receivable and grant extensions and indulgences to debtors by whom the same are payable without release or prejudice to such guaranty or extension or change of the obligation of the Vendor to make payments as aforesaid. The Purchasing Company shall from time to time, on demand, furnish the Vendor a full statement showing which accounts and bills receivable remain unpaid, and what, if any, disposition has been made in regard thereto or steps taken to enforce the collection thereof.

The Vendor shall secure the guaranties in this article provided for, by collateral or otherwise, to the satisfaction of J. P. Morgan & Co., in their discretion.

SEVENTH. The Purchasing Company shall have such corporate title, capital stock, organization, by-laws, directors and committees as may be approved by J. P. Morgan & Co., and shall have, in addition to materials on hand and inventories, a working capital of \$60,000,000 to be represented by cash or bills and accounts receivable guaranteed as aforesaid.

EIGHTH. The amount and the classes (if there be more than one class) of the capital stock of the purchasing company shall be determined after the ascertainment of the aggregate value of all its assets and properties; but such amount and such classes shall severally be satisfactory to J. P. Morgan & Co. If, however, there be only one class of stock, the capital stock shall not exceed \$120,000,000 par value, even though the aggregate value of the assets and properties of the purchasing company be in excess thereof. If there be both preferred stock and common stock, the preferred stock shall not exceed \$120,000,000 par value and shall entitle the holders to cumulative preferential dividends at the rate of, but not to exceed, six per cent per annum with preference, on dissolution or liquidation, as to principal and accumulated dividends; and the common stock shall not exceed the remaining value of the corporate assets and properties as so determined, which value may be ascertained and determined irrespective of the special appraisals which are to be made under this agreement.

If there shall be two classes of stock, then and in that event the Vendor shall be entitled to receive as additional purchase price under this agreement, common stock to an amount that shall bear to the total issue thereof the same proportion that the preferred stock to be received by the Vendor under this agreement shall bear to the total issue of preferred stock.

NINTH. The purchase provided for in this contract, shall take effect as of such day in September, 1902, as shall be designated by the Purchaser with the approval of J. P. Morgan & Co.; the appraisals shall be made as of such date as nearly as practicable, and the performance of the contract shall be completed prior to January 1, 1903.

TENTH. The charter or certificate of incorporation or organization of the purchasing company shall provide, among other things, that the capital stock of the corporation shall not be increased or

diminished except upon the affirmative vote or consent of the holders of at least two-thirds of each class of the outstanding capital stock of the company. Said charter or certificate may also provide that the stockholders may enter into a voting trust of their stock for a limited period. The charter or certificate shall likewise provide that no mortgage or lien upon the real property, plants, tools or machinery of the purchasing company shall be created without the affirmative vote or the written consent of the holders of at least two-thirds of each class of the outstanding capital stock.

**ELEVENTH.** The Vendor undertakes and agrees that it, or the holders of the stock of the purchasing company so to be issued in payment for the property to be transferred and conveyed under this agreement, shall deposit their stock with J. P. Morgan & Co., or a trust company to be designated by them as depository, upon a voting trust, which shall provide among other things for the appointment of three voting trustees, one of whom shall be J. P. Morgan or George W. Perkins, and the other two shall be persons appointed by J. P. Morgan & Co. The voting trust agreement shall be for the period of ten years, with provisions, however, that it may be terminated at any time after the expiration of five years upon ninety days notice, if a majority of the voting trustees shall so decide. The capital stock of the purchasing company shall be transferred to such voting trustees, who shall issue transferable certificates of beneficial interest entitling the holder to any dividends, distribution of profits and subscription rights which may accrue in respect of the stock so held by the voting trustees, and upon the termination of the voting trustees, and upon the termination of the voting trust entitling the holder to a proportionate amount of the stock so transferred to the voting trustees. The form, terms and provisions of the voting trust agreement shall be subject to the approval of J. P. Morgan & Co. The voting trust agreement shall contain adequate restrictions upon the voting power of the voting trustees in respect of an increase or diminution of capital stock, or the creation of any mortgage as aforesaid, so that any vote or consent by the voting trustees for any such increase or diminution, or mortgage, shall be given only upon the affirmative vote or written consent of the owners of a corresponding amount of the voting trust certificates of interest outstanding.

In case during the first year after the issue of said stock by the purchasing company the Vendor shall desire to sell any of the stock or voting trust certificates which it is free to sell under the provisions hereof, it shall offer the stock to J. P. Morgan & Co. by notice in writing, specifying the amount of the stock and the price at which the same is offered, and the Vendor shall be entitled to sell such stock to others only in case J. P. Morgan & Co. shall not within twenty days thereafter purchase said stock at the price named in the notice or at a price satisfactory to the Vendor.

**TWELFTH.** This contract, or any part thereof, may be transferred by the purchaser to the purchasing company, and such purchasing company may thereupon enforce all and singular its terms and conditions as fully to all intents and purposes as if it were a party

thereto. The place of performance of this contract shall be at the office of the Hudson Trust Company, Hoboken, New Jersey.

**THIRTEENTH.** The individual holders of a majority of the capital stock of the Vendor shall jointly and severally guarantee the performance of this contract by the Vendor as well as the substantial performance of all and singular the covenants, agreements and guaranties which may survive the dissolution of the Vendor, should such dissolution be finally determined upon. The individual holders of all the capital stock of the Vendor shall, as soon as practicable, and before the final consummation of this contract, cause to be deposited with J. P. Morgan & Co., or a trust company to be designated by them, as depository, certificates representing all the capital stock of the Vendor, duly indorsed for transfer in blank, and such depository, upon the Vendor receiving said purchase price, shall deliver said certificates to the purchaser, his nominee or assign, but the original stockholders shall be entitled to all payments payable upon said stock as their distributive share of the purchase price hereunder, or of any other assets of the Vendor not herein undertaken to be conveyed or transferred.

**FOURTEENTH.** The purchaser undertakes to duly secure by contract, the appointment of J. P. Morgan & Co., as the fiscal agents of the purchasing company and their acceptance of such appointment in order that the purchasing company may secure and have the benefit and advantage of the advice of said firm in the management of its financial affairs.

If any dispute should arise under this contract as to its true intent or meaning, or in respect of the performance of any part thereof, whether between the parties hereto or between the Vendor and the purchasing company, the matter in dispute in each and every case shall be left to J. P. Morgan or George W. Perkins as sole arbitrators, and the decision of such arbitrator shall be binding and conclusive upon the parties.

**FIFTEENTH.** In case any appraiser, arbitrator, accountant or voting trustee shall for any reason fail or cease to serve, then and in said event another or a successor shall be nominated and appointed in his place by the Vendor or by J. P. Morgan & Co. respectively, as the case may be, subject, however, in the case of voting trustees, to the provisions of the voting trust agreement.

References in this agreement to J. P. Morgan & Co. shall apply to that firm as now or hereafter constituted.

**IN WITNESS WHEREOF.** The party of the first part has caused these presents to be executed in its corporate name by its president and its corporate seal to be hereunto affixed attested by its secretary, and the party of the second part has hereunto set his hand and seal the day and year first above written.

WARDER, BUSHNELL & GLESSNER CO.

(Signed) JOHN J. GLESSNER,

Vice-President.

CORPORATE SEAL.

Attest: (Signed) GEORGE B. GLESSNER,

Secretary.

(Signed) Wm. C. LANE. (Seal.)



Assistant Attorney-General, Frank Blake, counsel for the Informant:

We also want a copy of the agreement made by and between the Plano Company and Wm. C. Lane for the purchase of the property of the Plano Manufacturing Company by the International Harvester Company from New Jersey.

The same to be produced at the request of the counsel for the informant and here inserted by the order of the Commissioner, Honorable Theodore Brace.

Said contract as requested here appears in the record in words and figures as follows, to wit:

(Copy.)

AN AGREEMENT, Made and entered into this 28th day of July, nineteen hundred and two, by and between the PLANO MANUFACTURING COMPANY (hereinafter called the "Vendor"), party of the first part, and WILLIAM C. LANE (hereinafter called the "Purchaser"), party of the second part.

WHEREAS, The Vendor is a corporation duly organized and existing under the laws of the State of Illinois, and owns certain manufacturing properties located in Cook county, Illinois, and employed in the manufacture of harvesting machinery and other properties intended for use in connection therewith; and

WHEREAS, The purchaser desired to acquire said properties and intends, upon the acquisition of said properties to sell, convey and transfer the same to a corporation now existing or hereafter to be organized under the laws of the state of Illinois or other state (hereinafter called the "Purchasing Company"), with a capital stock as herein provided:

NOW, THIS AGREEMENT WITNESSETH, That the parties hereto have agreed and covenanted as follows:

FIRST. The vendor agrees, for the considerations and upon the terms hereinafter stated, to sell, assign, transfer, convey and deliver unto the purchaser, his nominee or assign, by good and indefeasible title, free and clear of incumbrances, indebtedness and liabilities, except as herein stated, and the purchaser agrees to purchase, all and singular the real estate, factories, plants, buildings, improvements, machinery, patterns, tools, apparatus, fixtures, and appliances of the vendor, and all the patents, inventions, devices, patent rights, licenses, trademarks, trade-names, and good-will of all and singular said property as a going concern, and also all of the products, manufactured and in process of manufacture, materials, supplies and merchandise on hand at the time of closing said sale and all and singular its then pending contracts for the purchase of property or materials or the sale of product; also all other property of the vendor appertaining to the vendor's business aforesaid. There shall also be sold and purchased with said properties, \$4,000,000 (at face value and accrued interest) of bills and accounts receivable, representing sales made by the vendor. Such business and accounts receivable are to mature prior to March 1, 1905, and are to be guaranteed as hereinafter pro-

vided. Cash may be substituted for the whole or any part of such accounts and bills receivable at the option of the vendor.

SECOND. The Vendor agrees that, as soon as practicable after the execution of this instrument, it will, in pursuance of due authority to be conferred by the vote or consent of its stockholders, duly execute and acknowledge, and cause to be forthwith deposited with J. P. Morgan & Co. or a trust company designated by them as depository, proper deeds and other instruments of conveyance and sale for the granting, conveying and transferring as aforesaid unto the purchaser and his assigns, all the property hereinbefore recited together with evidence of the vote or consent of the stockholders of the vendors as aforesaid. Such depository shall hold the said deeds and other instruments in escrow and deliver the same to the purchaser or upon his order, only upon receiving for account of the vendor the consideration hereinafter provided, and upon the performance by the purchaser of the provisions hereof.

THIRD. The Vendor agrees to deliver to said depository as soon as practicable full statements in respect of its property and its assets and liabilities, its contracts for the purchase of materials and other property and for the sale of its manufactured products and otherwise relating to its property and business. The Vendor agrees that, pending the performance of and while this contract is in force, it will not, without the written consent of the purchaser, or of said purchasing company, enter into any new contracts or assume any new obligations or make any purchases or sales except such as are necessary and customary in the ordinary conduct of its regular business or to maintain it as a going concern and except such as may be necessary for the performance of agreements already entered into; nor make payments in advance of their maturity on pending contracts. The Vendor further agrees that during and while this contract is in force, no increase shall be made in its capital stock and no new capital employed in its business and no bonds issued and that no mortgage, lease or conveyance shall be made upon or in respect of its real estate of plant without the written consent of the purchaser; and also that, in case of any difference of opinion between the Vendor and the purchaser in relation to the conduct of the business of the Vendor, such difference shall be decided by J. P. Morgan or George W. Perkins, whose decision shall be final. All service contracts of the vendor taken over by the purchasing company shall be terminable on sixty days notice unless in specific cases otherwise determined by said purchasing company; and the Vendor shall indemnify the purchasing company against any claims under profit sharing contracts. In the case of any property delivered to the purchaser by the Vendor which is subject to encumbrance, the amount of the encumbrance shall be deducted in determining the value thereof.

FOURTH. The purchaser and said purchasing company and his or its nominees, the appraisers, accountants and counsel, shall have the right to examine the deeds and other instruments of conveyance and transfer so to be deposited by the Vendor with the depository as aforesaid, and shall, if the purchaser shall so require, be furnished

with abstract of title, title deeds and surveys which may facilitate the examination of the title to the property to be conveyed or transferred, and shall have free access to all the deeds, contracts, books and records of the Vendor for the purpose of examining and verifying the statements made with respect to its property, business, assets, liabilities and corporate status.

FIFTH. The purchase price to be paid by the purchaser to the Vendor for all and singular said property shall be the aggregate of the several appraisals and valuations hereinafter provided for and of said accounts and bills receivable and cash, if any, and shall be payable in full paid and non-assessable shares of the capital stock of said purchasing company, taken at per.

In order to make such appraisals and fix and determine such valuations, the property of the vendor shall be classified as follows:

(1) Real estate, buildings, factories, warehouses, fixtures, machinery, tools, patterns, drawings, moulds, and all other personal property used in connection with or appertaining to the Vendor's business, and which is not intended for sale in the ordinary course of business or to form part of or to be consumed in the manufacture of the Vendor's products, and including pending contracts for purchase of real property and for construction of buildings or fixtures, but not including the property and contracts otherwise classified. The assets of this class are hereinafter collectively designated as "plant."

(2) All materials on hand, manufactured, unmanufactured or in process of manufacture, including any and all articles intended to form part of or to be used in manufacturing the Vendor's product. The assets of this class are hereinafter collectively designated as "Materials on hand."

(3) Unexecuted contracts or orders for the sale of the Vendor's manufactured products, but not including contracts or orders for deliveries after the year 1902, for which latter contracts and orders (although to be transferred) no allowance shall be made. No allowance shall be made for contracts or orders for delivery prior to January 1, 1903, unless the material necessary for the completion of the machines or other manufactured products shall be in the possession of the Vendor and upon its plant at the time of the appraisal. Such contracts are hereinafter collectively designated as "Pending Sales."

(4) All contracts heretofore entered into by the Vendor for the purchase of material to be used in the manufacture of its products. Such contracts are hereinafter collectively designated as "Material Contracts."

(5) The interest of the Vendor in the Chicago Malleable Casting Company and the Chicago, West Pullman and Southern Railway and all property thereof, such being hereinafter collectively designated as "Malleable and Railway property."

(6) Patents, patent rights, devices, inventions, licenses, trademarks, trade-names, and good-will, including the value of the established business, name, standing in the trade, stability of business, organization, trade and custom as a going concern. Such assets are hereinafter collectively designated as "Patents, Good Will, etc."

The value of the plant as above defined, shall be ascertained and determined by three appraisers, who shall fix the present value of such plant as a going concern. One of such appraisers shall be nominated and appointed by the Vendor, and the other two by J. P. Morgan & Co.

The present value to a going concern of said materials on hand, of the said pending sales, and of the said material contracts, as above defined, shall similarly be determined by three appraisers, one to be nominated and appointed by the Vendor and two by J. P. Morgan & Co. and such appraisers shall make allowance in their judgment for unprofitable contracts.

The value of the Malleable and Railway property to a going concern, as above defined, shall be determined by J. P. Morgan & Co. or George W. Perkins.

The value of the patents and good will shall, for the purpose of this contract, be a sum equal to the net profits of the vendor during the two years ending November 30th, 1902, as ascertained in the manner hereinafter provided plus ten per cent thereof; and to such amount shall be added the value of the name, standing in the trade, stability of business, organization, trade, custom, etc., of the Vendor as a going concern, which value shall be fixed by J. P. Morgan or George W. Perkins in his sole discretion.

The profits for said two years shall be ascertained and reported to J. P. Morgan & Co., by three accountants, one of whom shall be nominated by the Vendor, and the other two by J. P. Morgan & Co. In calculating the net profits of the business, there shall be excluded all allowance for interest on bills and accounts receivable as well as the cost of collecting bills and accounts receivable. Said accountants in calculating the net profits for said two years, shall make allowance for depreciation or loss, if any, on bills and accounts receivable, for depreciation or loss, if any, on materials on hand, and for depreciation, if any, of the said plant from wear and tear or otherwise. In each case hereinbefore enumerated the decision, appraisal or report of a majority of the appraisers, or accountants or the decision of J. P. Morgan or George W. Perkins (if sole arbitrator or appraiser) as the case may be, shall be binding and conclusive upon the parties hereto.

SIXTH. Payment of the amount of all contracts or orders for sales of manufactured products included as assets of the vendor as aforesaid and transferred under this contract, shall be guaranteed to the satisfaction of J. P. Morgan & Co. by the Vendor and the net value thereof shall be appraised on that basis. Any and all accounts and bills receivable transferred by the Vendor hereunder shall be taken at their face value and accrued interest to date of transfer; but the Vendor shall guarantee, and hereby does guarantee, that the purchaser or the purchasing company shall realize thereon such face value and interest accrued and to accrue, and that said principal and interest shall all be received on or prior to the first day of March, 1905. The collections shall be made by the purchasing company, but the expenses of collection shall be borne by the Vendor. Pending such collections, the Vendor agrees to advance and pay to the purchas-

ing company on demand, from time to time, on account of such guaranty such amounts as the board of directors of the purchasing company may determine to be necessary or convenient for the conduct of its business, but not in excess of such amounts as J. P. Morgan & Co. may from time to time approve. If such advance payments be made by the Vendor, then the purchasing company shall transfer to the Vendor or its nominees an equal amount in principal and accrued interest of uncollected accounts or bills receivable of the earliest maturities. The purchasing company may take such measures as to it may seem wise for the collection of the accounts and bills receivable and grant extensions and indulgences to debtor by whom the same are payable without release of or prejudice to such guaranty or extension or change of the obligation of the vendor to make payments as aforesaid. The purchasing company shall from time to time, on demand, furnish the Vendor a full statement showing which accounts and bills receivable remain unpaid, and what, if any, disposition has been made in regard thereto or steps taken to enforce the collection thereof.

The Vendor shall secure the guaranties in this article provided for by collateral or otherwise to the satisfaction of J. P. Morgan & Co., in their discretion.

**SEVENTH.** The purchasing company shall have such corporate title, capital stock, organization, by-laws, directors and committees as may be approved by J. P. Morgan & Co., and shall have, in addition to materials on hand and inventories, a working capital of \$60,000,000 to be represented by cash or bills and accounts receivable guaranteed as aforesaid.

**EIGHTH.** The amount and the classes (if there be more than one class) of the capital stock of the purchasing company shall be determined after the ascertainment of the aggregate value of all its assets and properties; but such amount and such classes shall severally be satisfactory to J. P. Morgan & Co. If, however, there be one class of stock, the capital stock shall not exceed \$120,000,000 par value, even though the aggregate value of the assets and properties of the purchasing company be in excess thereof. If there be both preferred stock and common stock, the preferred stock shall not exceed \$120,000,000 par value and shall entitle the holders to cumulative preferential dividends at the rate of but not to exceed six per cent. per annum with preference on dissolution or liquidation as to principal and accumulated dividends; and the common stock shall not exceed the remaining value of the corporate assets and properties as so determined, which value may be ascertained and determined irrespective of the special appraisals which are to be made under this agreement.

If there shall be two classes of stock, then and in that event the Vendor shall be entitled to receive as additional purchase price under this agreement common stock to an amount that shall bear to the total issue thereof the same proportion that the preferred stock to be received by the Vendor under this agreement shall bear to the total issue of preferred stock.

**NINTH.** The purchase provided for in this contract shall take



effect as of such day in September, 1902, as shall be designated by the purchaser with the approval of J. P. Morgan & Co., the appraisals shall be made as of such date as nearly as practicable, and the performance of the contract shall be completed prior to January 1, 1903.

**TENTH.** The character or certificate of incorporation or organization of the purchasing company shall provide, among other things, that the capital stock of the corporation shall not be increased or diminished except upon the affirmative vote or consent of the holders of at least two-thirds of each class of the outstanding capital stock of the company. Said charter or certificate may also provide that the stockholders may enter into a voting trust of their stock for a limited period. The charter or certificate shall likewise provide that no mortgage or lien upon the real property, plants, tools or machinery of the purchasing company shall be created without the affirmative vote or the written consent of the holders of at least two-thirds of each class of the outstanding capital stock.

**ELEVENTH.** The vendor undertakes and agrees that it, or the holders of the stock of the purchasing company so to be issued in payment for the property to be transferred and conveyed under this agreement, shall deposit their stock with J. P. Morgan & Co., or a trust company to be designated by them, as depository, upon a voting trust, which shall provide among other things for the appointment of three voting trustees one of whom shall be J. P. Morgan or George W. Perkins, and the other two shall be persons to be appointed by J. P. Morgan & Co. The voting trust agreement shall be for the period of ten years, with provision, however, that it may be terminated at any time after the expiration of five years upon ninety days notice, if a majority of the voting trustees shall so decide. The capital stock of the purchasing company shall be transferred to such voting trustees, who shall issue transferable certificates of beneficial interest entitling the holder to any dividends, distribution of profits and subscription rights which may accrue in respect of the stock so held by the voting trustees, and upon the termination of the voting trust entitling the holder to a proportionate amount of the stock so transferred to the voting trustees. The form, terms and provisions of the voting trust agreement shall be subject to the approval of J. P. Morgan & Company. The voting trust agreement shall contain adequate restrictions upon the voting power of the voting trustees in respect of an increase or diminution of capital stock, or the creation of any mortgage as aforesaid, so that any vote or consent by the voting trustees for any such increase or diminution, or mortgage shall be given only upon the affirmative vote or written consent of the owners of a corresponding amount of the voting trust certificates of interest outstanding.

In case during the first year after the issue of said stock by the purchasing company the Vendor shall desire to sell any stock or voting trust certificates, it shall offer the stock to J. P. Morgan & Co., by notice in writing, specifying the amount of the stock and the price at which the same is offered, and the vendor shall be entitled to sell such stock to others only in case J. P. Morgan & Co., shall not



within twenty days thereafter purchase said stock at the price named in the notice or at a price satisfactory to the Vendor.

**TWELFTH.** This contract, or any part thereof, may be transferred by the purchaser to the purchasing company, and such purchasing company thereupon enforce all and singular, its terms and conditions as fully to all intents and purposes as if it were a party thereto. The place of performance of this contract shall be at the office of the Hudson Trust Company, Hoboken, New Jersey.

**THIRTEENTH.** The individual holders of a majority of the capital stock of the Vendor shall jointly and severally guarantee the performance of this contract by the Vendor as well as the substantial performance of all and singular the covenants, agreements and guaranties which may survive the dissolution of the vendor, should such dissolution of the Vendor be finally determined upon.

The individual holders of as much as possible of the capital stock of the Vendor (not less than sixty-six and two-thirds (66 2-3) per cent of all) shall, as soon as practicable, and before the final consummation of this contract, cause to be deposited with J. P. Morgan & Co., or a trust company to be designated by them, as depository, certificates representing their stock in the Vendor, duly and properly indorsed for transfer in blank, and such depository, upon the Vendor receiving said purchase price, shall deliver said certificates to the purchaser, his nominee or assign, but the original stockholders shall be entitled to all payments payable upon said stock as their distributive share of the purchase price hereunder, or of any other assets of the Vendor not herein undertaken to be conveyed or transferred.

**FOURTEENTH.** The purchaser undertakes to duly secure by contract the appointment of J. P. Morgan & Co., as the fiscal agents of the purchasing company and their acceptance of such appointment in order that the purchasing company may secure and have the benefit and advantage of the advice of said firm in the management of its financial affairs.

If any dispute should arise under this contract as to its true intent or meaning, or in respect of the performance of any part thereof, whether between the parties hereto or between the vendor and the purchasing company, the matter in dispute in each and every case shall be left to J. P. Morgan or George W. Perkins as sole arbitrator, and the decision of such arbitrator shall be binding and conclusive upon the parties.

**FIFTEENTH.** In case any appraiser, arbitrator, or accountant or voting trustee shall for any reason fail or cease to serve, then and in said event another or a successor shall be nominated and appointed in his place by the vendor or by J. P. Morgan & Co., respectively, as the case may be, subject, however, in the case of voting trustees, to the provisions of the voting trust agreement.

References in this agreement to J. P. Morgan & Co., shall apply to that firm as now or hereafter constituted.

**IN WITNESS WHEREOF,** The party of the first part has caused these presents to be executed in its corporate name by its president

and its corporate seal to be hereunto affixed, attested by its secretary, and the party of the second part has hereunto set his hand and seal the day and year first above written.

PLANO MANUFACTURING COMPANY,

(Signed)

W. H. Jones,

Attest:

President.

Secretary.

(Sgd.)

Wm. C. Lane. (Seal)

Assistant Attorney-General, Frank Blake, counsel for informant:

We also want produced a copy of the last statement, last annual statement for the year 1907, of the International Harvester Company of New Jersey, the same being dated June 11th, 1908, for the year ending December 31, 1907.

Said statement to be produced at the request of the counsel for informant and by order of the Commissioner, Honorable Theodore Brace.

Said annual statement here appears in the record in words and figures as follows, to wit:

INCOME ACCOUNT FOR 1907.

Total net earnings after deducting expenditures for ordinary repairs and maintenance (\$1,973,677.99) and current experimental and patent expenses (\$755,919.27).....	\$11,288,317.87
--	-----------------

Deduct.

Appropriations for renewals and minor improvements charged off.....	\$307,821.08	
Reserves for plant depreciation and ore extinguishment .....	1,000,000.00	
Reserves for contingent losses and collection expenses on receivables...	700,000.00	2,007,821.08
		<hr/>
		\$9,220,496.79

Deduct.

Interest paid on purchase money obligations and current loans.....	1,140,039.28
	<hr/>
Net profit .....	\$8,080,457.51

Deduct.

Preferred stock dividends for the season of 1907:

No. 1. 1¾¢ paid June 1, 1907.....	\$1,050,000.00	
No. 2. 1¾¢ paid Sept. 3, 1907.....	1,050,000.00	
No. 3. 1¾¢ paid Dec. 2, 1907.....	1,050,000.00	
No. 4. 1¾¢ payable March 2, 1908...	1,050,000.00	4,200,000.00
		<hr/>
Undivided profits for 1907 carried to surplus.....		\$3,880,457.51

## SURPLUS AT DECEMBER 31, 1907.

	Net profits.	Dividends paid.	Undivided profits.
Season 1903 .....	\$5,641,180.61	\$3,600,000.00	\$2,041,180.61
Season 1904 .....	5,658,534.68	4,800,000.00	858,534.68
Season 1905 .....	7,479,187.36	4,800,000.00	2,679,187.36
Season 1906 .....	7,846,947.32	4,800,000.00	3,046,947.32
			<hr/> \$8,625,849.97
	Deduct.		
Special appropriation from surplus at December 31, 1906, as a reserve to meet future collection expenses on outstanding receivables .....			500,000.00
			<hr/>
Undivided profits at Dec. 31, 1906.....			\$8,125,849.97
Add balance of undivided profits for season 1907.....			3,880,457.51
			<hr/>
Total undivided profits at December 31, 1907....			\$12,006,307.48

## CAPITAL STOCK.

The authorized capital stock of the International Harvester Company, all of which was issued and outstanding at December 31, 1907, is: Preferred stock 7% cumulative:

600,000 shares of \$100.00 each, par value.....	\$60,000,000.00
Common stock:	
600,000 shares of \$100.00 each, par value.....	60,000,000.00
	<hr/>
	\$120,000,000.00

The \$120,000,000.00 capital stock as originally issued consisted entirely of common stock and was all fully paid for when issued; \$60,000,000.00 was paid for in cash at par; and the remaining \$60,000,000.00 was issued for the real estate, plants and physical inventories acquired at organization which were conservatively valued by independent appraisers in excess of that amount, excluding any allowance for good will or patents. The real estate and plant properties were appraised by the American Appraisal Company and the Manufacturers' Appraisal Company. The raw materials, work in process of manufacture, and finished products were inventoried under the supervision of and valued by Jones, Caesar & Company, certified public accountants. The ore mines, coal lands, and timber lands were surveyed and valued by competent engineers.

By amendment of the company's charter on January 8, 1907, the plan of capitalization was changed (without increasing the total amount) by making one-half of the stock seven per cent. cumulative preferred stock, and leaving the other half common stock.

Stockholders received one share of preferred stock and one share of common stock in exchange for every two shares of the original stock. The preferred stock of the company is preferred as to assets and

dividends. The dividends are payable quarterly, and are cumulative from February 15, 1907.

The company has no bonded or other funded indebtedness, and its properties are free and unencumbered.

HASKINS & SELLS,  
CERTIFIED PUBLIC ACCOUNTANTS.

New York, April 16, 1908.

The Board of Directors, International Harvester Company, Chicago, Ill.

We have made an audit of the books, accounts and records of the International Harvester Company and of affiliated and subsidiary companies from the date of its incorporation, August 12, 1902, to December 31, 1907.

We find that of the \$120,000,000.00 capital stock issued \$60,000,000.00 was fully paid for in cash for working capital and \$60,000,000.00 was fully paid for with real estate, plants and physical inventories, which were valued by independent appraisers in excess of this amount, and that no capital stock was issued for good will, patents, promotion fees or organization expenses.

We have examined the charges to capital accounts during that period, have verified the cash and other current assets at December 31, 1907, including the inventories of raw materials and supplies, work in progress, and finished product, and have verified the income and profit and loss accounts.

We find that raw materials and supplies in storerooms and in process of manufacture were priced at cost, except where market values at December 31, 1907, were less than cost, in which cases the inventories were reduced to market values, that finished machines and attachments were inventoried at cost, repair parts, at proper percentages of list prices and twine at a slight reduction from cost to meet market conditions.

The company has pursued a conservative policy in relation to charges to capital accounts. Adequate reserves have been provided for depreciation of fixed assets and for possible losses, and full provision has been made for all known liabilities.

WE HEREBY CERTIFY That, in our opinion, the statement of combined assets and liabilities submitted herewith reflects the true financial condition at December 31, 1907, and that the accompanying statement of income and profit and loss is correct.

(Signed)

HASKINS & SELLS,  
Certified Public Accountants.

COMBINED BALANCE SHEET,  
DECEMBER 31, 1907.

ASSETS.

Property Account.

Appraised valuation of real estate and plant property acquired at organization, plus additions, improvements, and new acquisitions to date .....	\$62,293,844.12	
Expenditures for stripping and development of ore mines .....	550,292.36	\$62,844,136.48
		<hr/>

PREFERRED CHARGES TO OPERATIONS:

Advanced payments for mine royalties, etc.....	285,287.66
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CURRENT ASSETS:

Inventories:

Finished products, raw materials, etc., at close of 1907 season.....	\$35,140,415.69	
Subsequent material purchases and manufacture for 1908 season....	15,147,210.08	
		<hr/>
		\$50,287,625.77

Receivables:

Farmers and agents notes .....	\$26,583,001.00	
Accounts receivable ..	14,511,387.27	
		<hr/>
		\$41,094,388.37

Deduct:

Accumulated reserves for contingent losses	1,802,878.06	39,291,510.31	
Cash .....		3,573,893.94	93,153,030.02
		<hr/>	<hr/>
			\$156,282,454.16

Note. Capital stock was issued at par as follows: \$60,000,000.00 for cash for working capital; \$60,000,000.00 for real estate, plants and physical inventories which were valued by independent appraisers in excess of that amount. No capital stock was issued for good will, patents, promotion fees, or organization expenses.

The surplus of the company consists entirely of the balance of net earnings since organization after deducting dividend payments.

## LIABILITIES.

## CAPITAL STOCK.

Preferred . . . . .	\$60,000,000.00	\$120,000,000.00
Common . . . . .	60,000,000.00	
Purchase money obligations. . . . .		3,450,194.63
Bills payable . . . . .		10,465,775.36

## Accounts payable.

Audited vouchers, accrued interest and taxes, etc. . . . .	4,543,442.94	
Preferred stock dividend (payable March 2, 1908) . . . . .	1,050,000.00	5,593,442.94

## RESERVES:

Plant depreciation and extinguishment	3,841,502.11	
Collection expenses on receivables. . .	600,000.00	
Insurance . . . . .	325,331.64	4,766,733.75

## SURPLUS:

Undivided profits at December 31, 1907. . . . .	12,006,307.48	
		<u>\$156,282,454.16</u>

The following evidence was taken in the above entitled cause before Honorable Theodore Brace, Special Commissioner, on behalf of the informant. Said hearing having been adjourned by Honorable Theodore Brace to meet in Jefferson City, Mo., in division Number 2, of the Supreme Court of the State of Missouri, said hearing being held on June 15, 1909, Hon. Elliott W. Major, Attorney-General of the State of Missouri and Hon. Charles G. Revelle, Assistant Attorney-General for the State of Missouri, appearing for and on behalf of the informant. Hon. Edgar A. Baneroft and Hon. Selden P. Spencer and Hon. W. M. Williams, appearing for and on behalf of the respondent.

W. P. YANCEY, of lawful age being duly sworn upon his oath testifies as follows on behalf of the informant:

## DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. State your name? A. W. P. Yancey.

Q. Your residence? A. Kansas City.

Q. In what manner, if any, are you connected with the International Harvester Company of America? A. General agent.

Q. What relations, if any, have you with the International Harvester Company? A. None.

Q. How long have you served in your present capacity with the International Harvester Company of America? A. Including and since 1903.



Q. With what Harvester Company were you connected prior to 1903? A. The Deering Harvester Company.

Q. How long had you been connected with that Company? A. Since 1890.

Q. Had you been connected with any company prior to 1890, and if so, what? A. No, sir.

Q. What was your official capacity when you were with the Deering people? A. The same as now, branch house manager.

Q. Were you also located at Kansas City? A. Except one year, 1891, I was at Dallas, Texas, and 1892 and since at Kansas City.

Q. As general agent of the Deering Company, what were your principal duties? A. Well, to manage the branch house, employ traveling men, write contracts with local agents and to conduct the business generally.

Q. Now you spoke of traveling agents, what were the duties of these traveling agents? A. Traveling men is a traveler while the agent is a man that sells locally.

Q. Did you have what is known as a block man at that time? A. Yes, sir.

Q. Who employed him? A. I did, so called a block man as the general traveler for the branch house in charge of a block of counties, hence the name.

Q. Then you as general agent had control of certain territory and that territory was sub-divided and you had block men in charge of each sub-division, is that correct? A. Yes, sir; I was in charge of the entire territory assigned to me from the home office and that territory was divided into blocks.

Q. You had a block man in charge of each of these sub-divisions? A. Yes, sir.

Q. You employed the block men? A. Yes, sir.

Q. And who made the contracts with the local agents? A. The block men, generally, sometimes of course the local agent might come into the home office and it was written there, but generally the block men.

Q. In addition to the block men and local agents, what other men did you have in the way of canvassers and solicitors? A. We generally had a canvasser, had that man working under the block man and assisting and aiding the local agents in visiting the territory for the sale of machines.

Q. Well these canvassers or solicitors went to the territory of the different local agents in his territory and aided him in making sales to the farmer or purchaser? A. Yes, sir.

Q. Would you have more than one canvasser or solicitor in each block? A. Several times different ones, depending on the conditions of crops.

Q. Did that also depend on the amount of competition you had in a given block? A. Well to some extent perhaps.

Q. Now from July, 1902, until 1903, with what were you connected? A. In July, 1902, I was with the Deering Harvester Company.

Q. Say from July 28, until 1903? A. I was with two companies during that time in 1903, I was with the International Harvester Company of America.

Q. From July 28, 1902, until January, 1903, with what company were you connected? A. The Deering Harvesting Company. I should say the Deering Harvester Company.

Q. The Deering Harvester Company, what were your duties during that time? A. In charge as general agent as before.

Q. And conducting practically the same line of business as you had been prior to July 28, 1902? A. Yes, sir.

Q. Were any sales made after July 28, 1902, up until January 1903? A. Yes, sir.

Q. Well what are your general duties as general agent of the International Harvester Company of America and what have they been since 1903? A. As previously stated I am manager and have control of the branch house at Kansas City and in charge of a certain territory.

Q. What are your duties are they the same as when you were with the Deering people? A. Yes, sir; practically the same.

Q. Do you now have canvassers and solicitors assigned to each block? A. Yes, sir.

Q. As general agent for the International Harvester Company of America, what machines do you have the control and sale of? A. Champion, Deering, McCormick, Milwaukee, Osborne and Plano.

Q. Now prior to 1903 and more particularly prior to July 28, 1902, these machines were made and sold by the distinct companies, were they not? A. Yes, sir.

Q. Each of these companies had their special agent in Missouri? A. They did.

Q. Their block men? A. Yes, sir.

Q. Their solicitors and canvassers and their local agents? A. Yes, sir.

Q. How many special agents has the International Harvester Company of America in this state? A. They have four located in the state, but there are six operating solely or partially in the state.

Q. How many did the Deering have prior to 1903? A. They had three.

Q. Do you know how many the other companies had? A. I think perhaps the McCormick people had three and I am not certain about the balance.

Q. Have you any knowledge as to the number of block men, canvassers, solicitors and local agents that the six companies that formerly did business in Missouri had as compared with the number of special agents, block men, and local agents and solicitors the International Harvester Company of America has? A. I could not say definitely.

Q. Can you give us that approximately? A. I do not think there was a great deal of difference. I think we would have substantially as many employees in these capacities now as the independent companies had before because we have reduced the size of the territories.

Under the old plan the block men would handle eight to fifteen counties, now the block men handle three to four counties.

Q. Then it is your best impression that the International Harvester Company of America now employs in Missouri practically as many general agents, solicitors and canvassers and local agents as these combined companies did prior to July 28th, 1902? A. Substantially so.

Q. What other employees, if any, besides the block men, the canvassers and solicitors are connected with the general agency? A. Well a full office and warehouse equipment, cashier bill clerks, stenographers, and shipping clerks, and ware house men, janitors and roustabouts, telephone girls, etc.

Q. Have you connected with each general agency any special representative who receives his orders from Chicago? A. No, sir.

Q. You have no men that acts in the capacity of solicitors or canvassers that goes out directly from your general agency, from your office? A. Yes, sir; we do.

Q. What is the difference between the duties of these parties and the solicitors that are assigned to a block? A. Well this difference, they supervise, we may send out a man that has a more intimate and extensive knowledge of gasoline engines for instance——

Q. Now limit this to the harvesters and binders, have you any special solicitor or canvassers that go directly from the general agency out over the whole state or any particular part of the state? A. No, sir.

Q. You have not? Do all of the agents get their instructions from you outside of the local agents? A. Yes, sir.

Q. There are no special representatives connected with your agency that receive their instructions directly from Chicago? A. No, sir; Chicago has once in a while sent men to assist in a special line but when they came to Kansas City they were under my directions.

Q. Under what line would they be sent? A. Under gasoline engines, manure spreaders or cream separators, men that had particular knowledge along that line, these men when sent to my agency were under my direction and control, they had no power only to aid and assist and explain the details of the machine.

Q. They went out and worked directly with the prospective purchaser? A. Yes, sir; through the local agents, with the purchaser.

Q. Prior to 1902 at what price did the Deering binder, the six-foot binder, sell to the dealer? A. About \$100.00 f. o. b. factory.

Q. Was that price ever cut prior to 1902? A. Occasionally.

Q. Now to what extent was it in any event cut? A. It would be difficult to give a specific answer to that, I would have to speak entirely from memory, not having the records.

Q. State as best you can Mr. Yancey, the minimum price which the Deering six-foot binder was ever placed with a dealer? A. Of course there might have been cases where with carried over or damaged machines or machines that had been set up and used as samples the year before, we sometimes cut these quite a little and disposed of them again. Next year we would make a change in a certain machine and we would make a discount on those on hands to unload them.

Q. To what extent did you reduce the prices on these? A. Probably five to ten dollars per binder.

Q. Did you not prior to 1902 reduce the price to the dealer on machines that were manufactured for sale that particular year that were in a good condition? A. Yes, sir; perhaps we did so.

Q. To what extent would you cut the prices in these instances? A. That would depend somewhat on the quantity of binders sold by the local dealer, we sometimes gave a quantitative discount if he would sell so many we gave him a discount.

Q. How much would you give in these instances? A. Five dollars usually.

Q. Did you not any time prior to 1902 reduce the price to the dealer because of competition? A. Yes, sir.

Q. Now to what extent would you reduce the price in the instances of that character? A. Well, my previous answer covers that case. During the war of the companies we were pretty hard run for business and if it looked as if we were going to carry machines over and to protect ourselves we had to cut the price.

Q. How much? A. Ordinarily \$5.00, sometimes \$10.00. In extreme cases may be a little more than that.

Q. In fact you frequently cut the prices any way to sell? A. Not frequently.

Q. Was that the old instructions or was not that the rule prior to 1902? A. It could not be said to be the rule.

Q. It was rather frequently done, was it not, Mr. Yancey? A. It varied in different seasons, sometimes the demand was greater and the necessity did not exist in some years as others.

Q. Did you find that the necessity came up because the other companies were also doing that? A. Yes, sir.

Q. The McCormicks were doing that? A. Yes, sir.

Q. And the Plano? A. Yes, sir.

Q. The Milwaukee, the Osborne and the Champion, they were all doing that? A. Yes, sir; more or less.

Q. You frequently gave field trials during that time, did you not, Mr. Yancey? A. In the early day when binders were less known it was, field trials were quite common, that was done away with since 1894 or 1895, after that not much more of that was done.

Q. Were any field trials given in 1900 and 1901? A. Occasionally, but with less frequency than before, when binders were better known and understood.

Q. These field trials were merely given, one machine company took its machine out in the field and another took its machine out, and they demonstrated them to the prospective purchasers, the qualities of their machines? A. Yes, sir; they gave a demonstration of the work of their machine.

Q. After you had these field trials, after the test was had, was it the practice of each company to cut the price in order to meet the price the other company would make at these trials? A. I suppose price cutting was resorted to in these cases but not always, sometimes

it was done in other ways in entertaining or a picnic, something of that kind.

Q. Prior to 1902, the Deering Company and the other companies had expert men, did they not, that would go out and repair the machines that has been purchased from the different companies? A. Not from different companies, from the Deering Company.

Q. The Deering Company, the different companies had their own experts? A. Yes, sir.

Q. Of course your expert only repaired the machine bought from the Deering Company? A. Yes, sir.

Q. Were any charges made to the owner of the machine for that work? A. Ordinarily not, in extreme cases, yes, when it was the negligence of the operator or owner, we made a charge, ordinarily not.

Q. That was the exception when you did make a charge? A. Yes, sir.

Q. Does the International Harvester Company of America now send out experts to repair the machines? A. Yes, sir; we do.

Q. What is the rule now as to making a charge? A. The same as before, we seldom make a charge for testing or repairing a machine, our machines are sold with a warranty and we take pride in seeing it fills that warranty.

Q. For what length of time do you warrant these machines? A. For a season.

Q. If an expert is sent out after that year, do you not make a charge? A. No, sir; I fixed many that are ten or twelve years old and sometimes furnish repairs and it is seldom we make a charge, we are doing much of it, it is seldom we make a charge. We have been doing it since 1890.

Q. You do that today? A. Yes, sir.

Q. I mean the International Harvester Company of America? A. Yes, sir.

Q. Your block men, I believe you stated were given a certain definite territory? A. Yes, sir.

Q. When you contract with a local agent, is he also given a fixed, definite territory in which to sell? A. No, sir.

Q. He is not? A. No, sir; not definite and fixed.

Q. Have you not a provision in your contract that he can sell only in such and such a territory? A. We do not make it definite and fixed, we give the name of the home town and territory or trade tributary for instance—for a local agent at Jefferson City it would be for Jefferson City and trade tributary.

Q. How close together do you place these local agents for the different machines? A. Depending on circumstances, the density of population and acreage of the crops, etc.

Q. Is it left to the local agent to determine what territory that he can sell in? A. Yes, sir.

Q. That is, what is tributary to the central points? A. Yes, sir.

Q. Do you never have controversies arise from local agents as to these points? A. Yes, sir.

Q. Who adjusts these differences? A. We are not responsible

for the infringement of one agent on another and when we get a complaint from a local agent we reply we have nothing to do with that, that they have to adjust that locally.

Q. Do you not say when these complaints are made you cannot sell in this particular territory, do you not try to adjust that yourself? A. No, sir.

Q. In the event of this controversy arising, you have nothing to do with settling that as to what territory belongs to each agent? A. No, sir.

Q. Do you actually do it? A. No, sir; sometimes our men will talk to each man and try to bring about a better feeling as in any line, he does not try to dictate as to where he shall sell.

Q. If you had an agent at Washington and one here at Jefferson City and he made a complaint about it, who adjusts that? A. The general agent at St. Louis, he would have charge, he might tell the other agent he had been complained of.

Q. He would not direct him not to again sell machines in this territory? A. No, sir.

Q. Would that agent if he persisted in doing that be given the contract for another season? A. Yes, sir; I think he would, that of itself would not operate to prevent him, in fact we rather like enterprising agents. As far as the companies are concerned, one agent is privileged to sell any where in the state, it is not a general thing for an agent to leave his territory and get confused with another but any man coming to his place of business, regardless of his residence, he has a right to buy it whether he lives in Iowa or Illinois.

Q. Is it a fact that any local agent as far as your local company is concerned can sell these machines in any part of the state without fear of his conduct being considered by the company? A. Yes, sir; that would not prejudice him or his situation as far as future business with the company was concerned.

Q. He would be given no directions or instructions or criticised for doing that by your company? A. We certainly would not give him any directions.

Q. Do you mean to say Mr. Yancey that practice is strictly followed by your block men and your canvassers? A. Yes, sir; we have instructions to that effect.

Q. Do you know that practice is pursued by your block men and canvassers? A. Generally we might, like the other fellow have men that are indiscrete or men that are not as good business men as others, which might exceed their authority and say to one agent, that his neighbor agent had complained he was selling in his territory but he would do it in a personal capacity and not with any orders or authority from the home office.

Q. He is there as the agent of the company when he is talking? A. Yes, sir; the year around.

Q. There is a clause in your contract even at this time to the effect that when the company feels that their interests are jeopardized they can terminate the agency? A. Yes, sir; neglected or jeopardized.



Q. Now what is the price this season of a six-foot Deering binder to the dealer? A. It is \$107.50.

Q. When was the price of that machine increased? A. 1908.

Q. Were the machines sold during the season of 1908 at that price? A. Yes, sir.

Q. And are being sold at this season at that price? A. Yes, sir.

Q. What was this six-foot binder sold at from 1903 to 1908? A. \$100.00.

Q. Was that price ever cut during these years? A. As previously explained, we went over that.

Q. I am going over the price of these machines prior to 1902? A. Yes, sir; it was occasionally.

Q. Under what conditions has the price of the Deering machine been cut from 1903 to 1908? A. As explained before, we have done that when we probably would have too many machines at a local agency and were likely to carry them over and we would sell them at a reduced rate rather than to pay the freight back on them.

Q. Let me inquire of the occasions I was talking about a while ago, I meant to limit the period prior to 1902, did you so understand that? A. Yes, sir.

Q. Since 1903, have you reduced the price to the dealer because of competition? A. On binders?

Q. Yes? A. I do not recall any specific instances, probably we did when we were overloaded with machines or something of that kind or had sample machines, we have done that frequently since that time.

Q. I do not mean from the view point, I mean because of the competition you had with other machines, have you since 1903 reduced the price to the dealer of the Deering machine? A. I think not.

Q. Have you at any time since 1903 because of competition reduced the list price of any of the other binders that you handle and sell? A. Yes, sir.

Q. What machines? A. We had some Plano machines, a pattern that was going out called the Closed End Elevator, we sold at a discount of from five to fifteen dollars.

Q. That was because they were a back number and not because of competition with other companies, was it? A. Well substantially so, although it was competition that forced us to keep up-to-date with the machines.

Q. You had made improvements on the other machines? A. Yes, sir.

Q. You were selling these machines at reduced prices because they were not up to the standard? A. Yes, sir; we made certain changes, we did the same thing with the Champion machine, did that last year and this year and also with the Osborne machines.

Q. Take at a local point where you have considerable competition with a Johnston or some other harvesters, did you merely because you had competition cut your list price to the dealer? A. We have done that in extreme cases, and more particularly with this Plano and the Champion machines mentioned.

Q. Mr. Yancey, take one of your machines for 1908, that is a

standard new machine, that is shipped to a local agent, did you at any time cut your list price on that machine because he has competition with some independent company? A. No, sir.

Q. It is only because the machine is not up to the standard or has been used as a sample or something of that character that induced you to cut the list price? A. Yes, sir; that is true, we did that because we thought the cut of date machines of ours are better than others.

Q. You cut the price on this to keep from cutting the price on your standard machines? A. Yes, sir.

Q. What competitors have you in Missouri? A. Acme, of Peoria, Johnston Harvester Company of Batavia, New York, Walter A. Wood of Hoosack Falls, New York, I think that is about all on binders.

Q. Do you know how many machines the International Harvester Company of America sold in Missouri in 1908? A. No, sir.

Q. How many they sold through your general agency? A. Binders?

Q. Yes, sir; binders? A. About 900.

Q. How does the sale of binders from your agency compare, if you know, with the sales of the other agencies in Missouri? A. Perhaps a little above the average, there are six branch houses working solely or partially in Missouri. I have sold more machines than some and less than others, St. Louis has sold more machines than I have.

Q. Do you know what per cent of the International Harvester Company of America does in Missouri of the binder business? A. What per cent is done by the America Company in Missouri?

Q. Yes? A. I would only give my best judgment, I don't know what competitors are doing, I would say probably about eighty per cent.

Q. That is only an estimate, it may be more or less? A. Yes, sir; because our competitors usually do not let us know what they are doing.

Q. How many competitors were there in Missouri in the binder business prior to 1903? A. Well if you go away back there, there were quite a number that had failed.

Q. Say, in 1902 and 1901? A. I think substantially the same as now, I do not recall whether the Aultman-Miller-Buckeye Company at Akron, they went out of business about that time, with that exception the competition in 1901 and today is about the same number of binder companies.

Q. There have been no companies then since 1903 that did business in Missouri prior to that time that have either failed or for other reasons, they have quit the binder business in Missouri? A. I think not.

Q. What company prior to 1903 sold the greatest number of binders and mowers in Missouri? A. Well I don't know exactly, if we would take the stories of our competitors, they always state like us, my best judgment is that the Deering people sold more binders while the McCormick people sold more mowers in Missouri.

Q. These two companies were doing a greater business than any other company? A. Yes, sir; I think so.

Q. Then what company came next? A. Either the Milwaukee or the Champion.

Q. Then what next? A. The Plano.

Q. They were the five companies that were taken in the International Harvester Company of New Jersey, were they? A. They are the five companies that were bought by the International Harvester Company, yes, sir.

Q. When did you first begin handling the Osborne, since they were connected with the International Harvester Company of America? A. My recollection is that at the end of 1904 the season was practically over.

Q. Well now during the season of 1905, did you and your block men and solicitors and local agents handle the Osborne? A. Yes, sir; for 1905 and 1906.

Q. In 1904 how was that machine handled? A. It had a branch house and traveling men of its own.

Q. Had its general agents? A. Yes, sir.

Q. And its block men and solicitors and local agents? A. Yes, sir; a separate organization.

Q. You had no connection with the Osborne business in the season of 1904? A. No, sir; as stated before it was at the close of the season when I had connection with it.

Q. You received at no time instructions of any character from the International Harvester Company of America or New Jersey relative to the Osborne Company? A. No, sir; not up until the end of the season of 1904.

Q. Did you know at that time who owned the stock of the Osborne Company? A. No, sir.

Q. None of your block men or agents so far as you knew, know who owned it? A. No, sir.

Q. Have you learned since this time who owned the stock at that time? A. Supposedly from the home office at Auburn, I was told that.

Q. The Osborne Company was treated by you as an actual competitor during these two seasons in 1903 and 1904? A. Yes, sir.

Q. What machine did the Minnie Harvester Company make? A. It was called the Minneapolis Harvester, called Minnie for short.

Q. Was that machine sold in Missouri prior to 1903? A. Yes, sir; but some years prior to that, my impression is they did not sell any in this state, much if any, after 1899 or 1900.

Q. Do you know as a matter of fact that they in 1902 and in 1903, that they were manufacturing binders and selling them at other places at least? A. No, sir; I don't know that as a fact.

Q. Have you at any time since your connection with the International Harvester Company of America, had anything to do with the Minnie machine? A. No, sir.

Q. That machine is not sold in this state now? A. Not to my knowledge.

Q. It has not been for quite a while? A. For several years.

Q. It has not been sold in this state since 1903? A. I think not.

Q. What character of machine did the Keystone Company make?

A. The Keystone Company was located at Sterling, Illinois, they made principally corn shellers with horse power, they also made side straw rakes and hay loaders, they were their principal lines.

Q. Were these machines sold in this state prior to 1903? A. Yes, sir.

Q. Are they sold here now? A. Yes, sir.

Q. Through what company are they sold here now? A. International Harvester Company of America.

Q. Since when have their machines been sold by the International Harvester Company of America? A. Sometime late in 1905, probably September or October, 1905.

Q. That was after the 1905 season was over? A. Well practically over.

Q. Some of that comes earlier than in October? A. Quite a few are sold prior to that.

Q. Up until in October, 1905, and during the year 1904, this company was operating in Missouri through their individual agencies that had a branch house in Kansas City? A. They had a branch house in Kansas City.

Q. You had no instructions relative to that company or the sale of its agents? A. No, sir; none whatever.

Q. You did not in the year 1902, 1903, 1904 and up until October, 1905, know who owned the Keystone Company? A. I did not, you say October, 1905, it might have been September, no, sir; I did not.

Q. Was the fact that the International Harvester Company had acquired the Keystone Company made known to the general public as early as 1905 or was that made known only to the employees? A. When the branch houses were notified in the fall of 1905, it became then generally known.

Q. You are sure Mr. Yancey that during a part of the season in 1906 that this company was not operating ostensibly as an independent company in Missouri? A. Yes, sir; I am sure that so far as my knowledge is concerned and in my territory.

Q. Was the Weber Wagon sold in Missouri prior to 1903? A. Yes, sir.

Q. Is it sold in Missouri yet? A. Yes, sir.

Q. Through what agency is it now sold? A. The International Harvester Company of America.

Q. In what manner was it sold prior to 1903? A. In different manners, in different territories.

Q. I mean with reference to separate agents. A. In my territory it was sold through a jobbing house, in St. Louis, another jobbing house might have had it.

Q. In other words, it was sold different than through the International Harvester Company of America? A. Yes, sir.

Q. When did the International Harvester Company of America first commence selling the Weber Wagon? A. I am not clear on that, I do not believe I can tell you about the year, not having charged my memory with it, it is an incident in the business.

Q. Do you know the price of the Weber Wagon Company to the dealer prior to 1905? A. No, sir.

Q. What is the price of it now? A. I could not tell you without my wagon bulletin because there are 754 different combinations of the Weber.

Q. That the Weber Company makes? A. Yes, sir; as to height of wheels and width of the tire, and different details.

Q. Has the price of the Weber Wagon increased in any manner since the International Harvester Company has acquired it? A. On the contrary, I think the price has decreased.

Q. Since they got control of it? A. Yes, sir.

Q. Now the price on mowers has that been increased since 1903? A. Yes, sir; it was in 1908.

Q. To what extent was that increased? A. To something more than \$2.00, the increase in the list price was \$2.50, but the cash discount was raised from 5 to 7 per cent, so the net advance was a little over \$2.00.

Q. How many competitors have you in Missouri on wagons? A. Impossible to answer.

Q. You have a great many? A. I know the woods are full of them when I go to get orders.

Q. You have a great many of them? A. Yes, sir.

Q. Your company sells about 25 per cent of the wagons sold in Missouri, does it not? A. Not according to my judgment, no, sir.

Q. You think it is less than that? A. I am sure it is in my territory, I would be proud to think I got fifteen per cent of the wagon trade.

Q. To what extent would you say the price on wagons had been reduced, that is, about what per cent? A. Since the International Harvester Company assumed control of it? I should judge about five per cent.

Q. Five per cent? You as agent of the International Harvester Company of America could supply perhaps 50 or 75 per cent of the wagon trade of Missouri, could you not? A. No, sir; and in certain other territories if we turned over our whole output in Missouri.

Q. Has not the International Harvester Company of New Jersey sufficient factories now to supply at least 50 to 60 per cent of the wagon trade of the United States? A. I think not.

Q. Do you know what per cent they have the capacity to supply? A. I know about their maximum capacity, I don't know what relation that bears to the wagon trade of the United States and I do not think any other living man can tell.

Q. You sell the Weber Wagon now, what factories, if any, besides the Weber Wagon factory is used by the International Harvester Company of New Jersey to manufacture wagons? A. At the Plano works and the old Weber at Chicago.

Q. Is the Plano used exclusively for that? A. No, sir; they make manure spreaders.

Q. They make no binders? A. No, sir; the harvesting business, two or three years ago was moved to the Deering works in Chicago.

Q. Are the prices of the Osborne and the Plano and the Champion and the McCormick and the Deering and the Milwaukee to the dealer all the same now? A. They are uniform, yes, sir; as to the same size of machines.

Q. The six-foot binders of the Deering is the same as the six-foot of the Milwaukee and the Plano and so on? A. Yes, sir.

Q. That is true also of the different mowers, is it? A. Yes, sir.

Q. Do you know what the list price to the dealer of the McCormick was prior to 1902? A. Yes, sir.

Q. What was it? A. The same as the Deering, \$100.00 to the dealer f. o. b.

Q. What was the price of the Plano to the dealer? A. The same I was always told.

Q. You don't know that as a matter of fact? A. No sir.

Q. And the Champion? A. The same, I was so told, and they were all standard machines and supposed to sell on the same price.

Q. You don't know as a matter of fact they were the same? A. No, sir.

Q. You don't know of your own knowledge whether or not the price was the same on the six-foot binders prior to 1903? A. That is my understanding.

Q. You know they frequently sold to the dealer and the purchaser at different prices prior to 1903? A. Yes, sir.

Q. Now who fixes the price Mr. Yancey at which these machines are sold to the dealer? A. Chicago.

Q. You have nothing to do with that? A. We get our list price from the home office in Chicago.

Q. You are required to stand strictly by these prices unless you receive other orders? A. We are instructed to hold to these prices, yes, sir. There might be occasions though where we would cut the price as previously stated for some specific reasons.

Q. Well reports of that are made to the Chicago office, your reasons for cutting the prices or else you receive directions to cut the price? A. No sir; we do not have to receive directions, it shows at our report at the close of the year.

Q. If you cut the price, do you not have to report your reasons for cutting the price? A. For the last two or three years we have been reporting them, yes, sir; on a concession blank.

Q. These are furnished by the company to you for that purpose? A. Yes, sir.

Q. What change, if any has been made in the local agency contract since 1903? A. Some important changes, the exclusive clause has been eliminated, the clause requiring the agent to endorse or guaranteeing the payment of farmers notes have been eliminated, change in the discount and important changes in favor of the dealer and farmer. And the clause requiring the local agent to insure at his own cost for our benefit, has been eliminated and we carry our own fire insurance risk, for instance, prior to 1903 we shipped an agent a car of Deering machines we expected him to insure them and if he had a fire to insure them and to pay us, and we ship out a car and we insure them



and if they burn we assume the risk and not hold him. These are three changes that are all in favor of the agent that has been made.

Q. When were these changes made? A. In 1905 or 1906.

Q. Then aside from the changes made in 1905 or 1906 the contracts now are as they were prior to 1905? A. Substantially so, there may be some little unimportant changes.

Q. Who fixes the price at which the local agents sells to the purchaser? A. The local agent does.

Q. Do you not give directions on that now? A. No, sir; not now.

Q. Since when? A. Since 1904, possibly 1905.

Q. Did not your block men give instructions on the prices at which the dealer must sell to the purchaser? A. No, sir.

Q. Are you sure of that? A. Yes, sir; unless they exceeded their authority since 1905.

Q. When the agency contract is terminated, can that be done by the block men or do you do that? A. We do that at the Kansas City office. The block men have no authority to do that unless instructed by us at the office.

Q. Then whenever for any reason the local contract or agency is terminated it is done directly or indirectly through your agency? A. Yes it may be done at the suggestion or instruction of the block men but it has to be done through the general agency office because the original contract is on file at the home office.

Q. Is Warsaw in your territory? A. Yes, sir.

Q. Is Hamilton? A. Yes, sir.

Q. Is Weston? A. Yes, sir.

Q. And Lathrop? A. Yes, sir.

Q. And Cassville? A. I think not.

Q. Is Tina? A. Yes, sir; that is in Carroll county.

Q. Have you an agent there by the name of S. L. Heath? A. At Warsaw?

Q. Yes, sir? A. Not now.

Q. Did you have any in 1907? A. I would have to consult the records, I think not in 1907.

Q. He was your agent at some time? A. Yes, sir; but I think it was prior to 1907.

Q. Do you know for what reason his contract was terminated? A. I could not tell without consulting the record or looking up the correspondence.

Q. If the contract was terminated though for any reason, any controversy between the company and the agent, it was terminated with your knowledge and consent? A. Yes, sir; and because our interests were neglected or jeopardized.

Q. Under the clause that you had the power you felt your interests jeopardized? A. Yes, sir; or neglected.

Q. Did you have the Colby Mercantile Company at Hamilton, Mo., as your agent? A. Yes, sir.

Q. Did this company act for you in 1907? A. They did in 1906 and may be in 1907.

Q. Do you know why the contracts of these people were terminated? A. Not without looking up the correspondence, we frequently make changes of local agents for various and sundry reasons that seem best at the time.

Q. Did you have agents at Weston, by the name of Swope and Mitchell? A. Yes, sir.

Q. Were they your agents in 1907? A. They were in 1905 and 1906, I am not sure about 1907.

Q. Do you know why their agency was terminated? A. No, sir; not without looking up their records; I don't know what particular reason.

Q. Did you have an agency at Lathrop, Armstrong and Ellmore? A. Yes, sir; they were in 1905 and 1906, but I hardly think in 1907.

Q. Do you know why that contract was terminated? A. I cannot recall now.

Q. Did you have at Tina, Mo., an agent by the name of J. L. Dickerson? A. Yes, sir.

Q. What years did he represent you? A. Well, for several years, and if my memory serves me, he is still our agent.

Q. Now, all of these contracts that were terminated, I will ask you, if they were terminated, were terminated with your consent and for reasons that were sufficient to you? A. Yes, sir; and frequently within the terms of the contract.

Q. Did you permit the local agent whom you say handles the Deering or McCormick or any other of your machines, to act as agent for an independent company? A. Yes, sir; very often.

Q. You did that? A. Yes, sir.

Q. Do you know of any instances where you refused a contract with an agent because he was handling a machine of another company? A. No, sir; we do not refuse; before the International Harvester Company of America we did refuse then but do not now.

Q. You did prior to 1905? A. We might, in some specific cases, for reasons peculiar to that territory.

Q. You had that written in your contract? A. Yes, sir; when that clause was in there, but even then there were contracts with other companies; it was never enforced.

Q. Do you know of any instances in your territory where your agents are handling binders of other companies? A. Yes, sir.

Q. Give me some of them. A. My judgment is that the three independent or competitive Harvester Companies doing business in this State, I should think seventy-five per cent. of their contracts are made with agents representing us.

Q. Give us some specific instances where your agent is the agent of some independent company? A. Well, I will have to cast around for an instance of that kind, but there are a number of them if I could recall them. I could furnish that information later, but I could give a number of dealers in different towns.

Q. I request that after we get through your examination that you try to think of some instances this afternoon that you can give us before you leave? A. I can and I will refresh my memory.

Q. You don't know who fixed the price of the Osborne machine in 1903 and 1904? A. Presumably the D. M. Osborne Company of Auburn.

Q. Do you know who fixes the price of the Osborne machine now? A. The International Harvester Company of America at Chicago.

Q. You don't know by what means the prices of machines are fixed between the American Company and the New Jersey Company? A. No, sir.

Q. Now, Mr. Yancey, why was the price of the harvesters and binders increased in 1908? A. Because the binders had been carrying a burden, the increase was because the cost of material and labor had reached a point where there was little money in the business.

Q. This increase did not come by a leap and a bound, but it came on gradually? A. Yes, sir; for years.

Q. It had been increasing from 1902 to 1908 steadily? A. Yes, sir; substantially so, probably not an increase every year, but most years up until 1909.

Q. When was a decrease made in the price of the Weber wagon? A. In 1907 and 1908, and a part of 1909.

Q. Now, do you know when the Company purchased its material for the machine they are going to put on the market for the next season, what time of the year? A. Harvesters or wagons?

Q. Harvesters and mowers. A. My understanding in a general way is, they are placing their orders now for material to be delivered this fall for the manufacture of machines for 1910.

Q. Now, how did the prices of raw material, the latter part of 1907 and the first part of 1908 compare with the prices of material prior to that time? A. Well, it was considerably higher.

Q. You mean in 1907 and 1908 was higher than in 1905 and 1906? A. Yes, sir; my understanding is the culmination of the advance was along towards the last of 1907, when the so-called panic shook the prices of raw material.

Q. When did that shake come? A. In October or November of 1907.

Q. That not only shook the increase but made the material decrease? A. I should not say so; it resulted in a decrease gradually and less in some lines than others. For instance, wagon wood stock has gone up.

Q. Wagon wood stuff went up in 1907 and 1908? A. Yes, sir; it is higher now than in 1907.

Q. How was it from October, 1907, to October, 1908? A. It is my understanding it was higher.

Q. The price of material that goes into your wagons has gradually increased since 1907, and is higher now? A. Yes, sir; that is my understanding; I have no connection with the purchasing department, and my understanding is from what I got generally in reading the trade journals.

Q. Of what material is the binder and mower made principally? A. Iron and steel.

Q. Do you know, as a matter of fact, that from in 1907 and 1908 was reduced in price about one-half? A. No, sir; I do not.

Q. Do you say it was not, or do you know? A. I do not think it was reduced one-half or any where near that.

Q. Don't you know there was a decrease in the price of steel about 25 per cent. during that time? A. I don't know what per cent.; I do not know what per cent.; I understood that the price of steel first declined, but would not judge it as much as 25 per cent.

Q. You don't know, as a matter of fact, Mr. Yancey, do you know that the price of material that goes into the binder and mower, together with the price of labor in the fall of 1907 and the early part of 1908, was decreasing considerably? A. It has decreased; yes, sir.

Q. Yet in 1908 the price of the machine was increased? A. Yes, sir; perhaps an explanation might make that a little clearer to you as stated, our people are now placing their order for material, to be delivered this fall, to manufacture their machines next year. So, in June or July, 1907, while material was at its highest point and scarce and difficult to obtain for orders at any price, it was then they figure on the cost or selling price of their machines for 1908.

Q. Yes, sir; but when it come to 1908, when they were figuring on the price of the machine for 1909, the price had been reduced then, but the price of the machine for 1909 was continued the same, was it not? A. Yes, sir.

Q. So the machine of 1909, that got the benefit of decrease in the material? A. Yes, sir; but not in 1908.

Q. Mr. Yancey, if the price of material that goes into the wagon has constantly increased, how do you account for the decrease in the price of the wagon as compared with the increase in the price of the binder and mower? A. My reason for that is, it is a case of over-production and fierce competition.

Q. The trouble of the matter is, on the binder business you controlled more than 80 to 90 per cent. and on the wagon business, where the price has been decreased, you controlled some 15 or 20 per cent. of the business. A. Yes, sir; substantially so.

Q. Mr. Yancey, what is the nature of competition now as compared with the competition prior to 1902 on the harvesters and binders? A. So far as the local dealer is concerned, it is practically the same.

Q. Is there any competition at all so far as your agency and your block men are concerned between the McCormick and the Plano and the Deering and the different machines handled by you? A. Yes, sir; a spirited competition.

Q. You handle all of them; I mean a spirited competition between the local agents. Illustrating the one thing, the prices of these machines are all fixed at the same, is there any greater demand in this State for one of these machines than for the other? A. It varies in localities, counties and districts. In my locality I sell more Deering Binders than any other and sell more mowers to the McCormick.

Q. Do the sales of these various machines continue in the same pro-

portion as they did prior to 1902? A. Well, not exactly; there are some changes but not a great deal.

Q. Not a great deal? A. No, sir.

Q. Then so far as the demand for one machine over and above the other machine, that cuts no figure at what the prices of these machines are sold? A. No, sir; none.

Q. Does your agency have anything to do with the collection of the notes and the bills receivable of these different companies? A. No, sir; that is a separate department.

Q. You know nothing about the operation of that department? A. Only in a general way.

Q. When you were with the Deering people, did you have anything to do with the collection of that business? A. Only in 1900 and 1901; after that time it was handled in another way.

Q. You had nothing to do with that in 1902? A. No, sir.

Q. There are no field trials now in your territory among the McCormick and the Plano and others? A. No, sir; I got out of that habit long before the International Harvester Company was formed, because it served to no good purpose; it was an expense.

Q. Do you know whether the business of the Acme Company and the Johnston Company and the Walter A. Wood has increased since 1902? A. I think they have.

Q. Now, there is not the same character of competition between the six companies or six machines which you sell, as there was prior to 1902? A. It is not the same character of competition.

Q. What is the difference in the character of competition? A. The difference begins at the general agency office, where he has six lines and the block men, and the one comes to the local agent and sells and delivers to the consumer to the farmer, the competition is practically the same now as then.

Q. Did your competitors increase their price of mowers and binders in 1908? A. We understood they did; I don't know it as a fact.

Q. Do you know it is a fact? A. I could not say it is a fact, only what I have been told by the dealers and local agents of the Company.

Q. At what price did the Acme sell their six-foot binder? A. I have been told from \$105.00 to \$107.00.

Q. You don't know as to that? A. No, sir.

Q. How do you know as to the Johnston or Wood? A. No, sir.

Q. The different machines sold by you, you have different catalogues and different advertisements for the various machines? A. Yes, sir.

Q. The same as you had prior to 1902? A. Yes, sir.

Q. Now, each block man, he is not employed to handle each separate machine, he handles all the machines in his territory? A. Yes, sir.

Q. And contracts with the different local agents for these machines? A. Yes, sir.

Q. How many competitors have you in Missouri on clover bunchers? A. I could not tell; we sell so few of them; they are unimportant part of our business.

Q. How about the corn binders? A. I think we have three competitors on corn binders.

Q. Do you sell corn harvesters? A. Well, they are called a corn harvester and binder.

Q. There is a difference between a corn harvester and binder? A. Yes sir; we make one combination; there is one, there is a machine that is a head machine that does not bind it.

Q. That is called a corn harvester? A. Yes, sir; or cutter, we do not handle that or make it at all.

Q. Who are your competitors on corn binders? A. The Johnston and the Wood Company, and I am not sure whether the Acme handles the binder or not.

Q. Then there may only be two competitors? A. Maybe but two; yes, sir.

Q. Do you handle cream separators? A. Yes, sir.

Q. How many competitors have you on these? A. Quite a number.

Q. Do you sell a great many of these; is that a particular line of yours? A. No, sir; we have only had it two or three years, and the sale is increasing tthough.

Q. I will ask you to state what machines and implements you principally sell in Missouri? A. In addition to harvesters and mowers, we have reapers.

Q. What is a reaper? A. It is an old-time machine that cuts the wheat and delivers it. It is used for alfalfa and cutting flax.

Q. How many of these do you sell in a year? A. Very few; hardly a car load.

Q. It is an inconsiderable part of your business? A. Yes, sir.

Q. Your principal lines— A. We have rakes, which are under three heads, a sulky rake, a side-delivery rake and a sweep rake, and we have hay loaders and hay stackers, straw tedders, manure spreaders, cream separators, gasoline engines, disk harrows, peg tooth harrows, spring tooth harrows and five tooth cultivators, wagons; these are the principal lines; there may be some little things I have overlooked.

Q. These are lines you sell quite a number of machines? A. Yes, sir.

Q. Is not your binder and mower business your largest business in Missouri? A. No, sir.

Q. What is, what line have you that is larger? A. You mean the binders and mowers would exceed the remainder of the lines?

Q. Will they? A. No, sir.

Q. Your binders and mowers will exceed any other two lines? A. They will exceed any other line, or probably any other two lines.

Q. Do you mean by that Mr. Yancey, you do as great a per cent. of the business that is done in Missouri on these other lines as you do of binders and mowers? A. We do more in the aggregate of the others.

Q. I mean as a per cent. of the business, is the per cent. of business done by your company of the business done in the State more or as much as done on the other lines? A. We get a larger proportion of the binder and mower trade than on the remaining lines.



Q. You stated you got something like 80 per cent. of the binder and mower business in Missouri? A. 80 per cent. on the binder, but not the mower.

Q. What per cent. on the mower? A. Sixty-five per cent. of the mower business I should judge.

Q. Now on your rakes, take your three rakes, the sulky, and side delivery and sweep rakes, what per cent. of the business in Missouri do you do on that line? A. There is quite a difference; of the sulky rake I would do I would get sixty per cent. of the total but on the sweep and side delivery rakes I do not get 15 per cent., I do not think.

Q. You are speaking of your particular territory? A. Yes sir; my part of Missouri.

Q. You cannot give a definite idea of the per cent. of the business done in the State on these particular lines, can you? A. No, sir.

Q. What per cent. of the business do you do on the cream separators in your territory? A. As compared with the total?

Q. Yes. A. I do not think I get over ten per cent. of the trade.

Q. What on gasoline engines? A. Probably 15 per cent., or a little more.

Q. What on the manure spreaders? A. Probably 15 or 20 per cent.

Q. What per cent. on the harrows, the three kind, disk, peg, tooth and spring tooth? A. On disc harrows this is purely guess; I don't know what my competitors do; I wish I did know; I would like to tell you, but I do not get more than fifteen per cent. of the trade on disc and peg tooth harrows, and very little and an insignificant per cent. of the spring tooth.

Q. Did you increase the price of these in 1908? A. I think not.

Q. You think not. Did you increase the price on your rakes in 1908? A. The price of the sulky rake was slightly increased in 1908.

Q. Did you increase the price on your gasoline engines? A. I think not; there were some certain readjustments made as to the size; I do not think there was any increase on the general line.

Q. Did you increase the price on cream separators? A. No sir.

Q. You handle corn planters? A. No, sir.

Q. Corn shellers? A. Yes, sir.

Q. What per cent. of the business did you in Missouri on that? A. Very small per cent., not to exceed ten per cent.

Q. Did you increase the price on that? A. I think not.

Q. You handle hay presses? A. Yes sir.

Q. What per cent. of business do you do on that? A. So small I am ashamed to tell you.

Q. Approximately? A. Less than five per cent.

Q. Did you increase the price on that? A. No, sir.

Q. How about hay stackers, what per cent? A. Five to ten per cent.

Q. Did you increase the price on them? A. No, sir.

Q. Now, headers and combined headers, what per cent. do you do on that? A. They are so little sold in Missouri, they do not cut any figure at all.

Q. Do you not do about eighty per cent. of the business done? A. We may; I do not think I sold to exceed six last year.

Q. Did you increase the price on these? A. Yes, sir.

Q. How about knife and tool grinders? A. We make those.

Q. What per cent. do you do in Missouri? A. I should say twenty to twenty-five per cent.

Q. Is it not nearer eighty per cent.? A. I would not think so; no, sir. There are quite a number of knife grinders on the market and standard manufacturers.

Q. Did you increase the price on these? A. No, sir.

Q. Do you know how many competitors you have on these? A. I do not, but quite a number, they are sold by the manufacturers and through jobbing houses, sometimes hardware stores handle them that do not handle harvesters at all.

Q. You also handle twine? A. Yes, sir.

Q. What per cent. of the twine business do you do in Missouri? A. Probably 45 to 50 per cent.

Q. You have a number of competitors on twine in this State? A. Yes, sir; including the State itself.

Q. Was the price of twine increased in 1908? A. No, sir; it was decreased.

Q. Mr. Yancey, you stated that the character of competition between the local agents of the different machines is practically the same now as 1902. If there is any reduction made in the price of one machine by one agent as against the price of the machine of another agent, that reduction has to come out of the commission of the agent. A. Yes, sir.

Q. So far as the price of the machine to the agent is concerned, there is no such thing as a cut price caused by competition as there used to be? A. No, sir; not as formerly; there are some exceptions, of course.

Q. What is the rule with reference to giving to a local agent of an agency more than one of your binders or mowers? A. We frequently have an agent that handles three or four, and in extreme cases, five or six of our machines.

Q. What is your adopted practice and general rule with reference to that? A. Our general rule is to go into a town and make a contract with all the qualified and responsible dealers, divide up the lines as far as they will go, and if there are not enough dealers we will let them order any machine of any other brand we have.

Q. As long as you can find enough agents it is your practice to give one machine to one man and one to another man? A. Yes, sir; to confine them—yes, sir; but we frequently have one dealer handling all six lines.

Q. That is because you cannot get a dealer to handle them? A. Yes, sir.

Q. By that means you are able to get a number of the best agents in each community? A. Yes, sir.

Q. That is one of the purposes in dividing it up? A. Yes, sir.

Q. And another purpose is to make these machines immediately accessible to all the farming community? Would that not be true if you

had only one agent? A. No, sir; if we had only one agent in Jefferson City he might buy Deering, and the farmer wanted a McCormick, he would have to go to the other town.

Q. If you gave the agency to one man for all the machines you would not meet that objection? A. No, sir; we do it to make them available and accessible to one community.

Q. But that often would be eliminated if you gave an agent all the machines, gave them all to one man instead of dividing them up among six men. The machines would be as equally available and accessible? A. Yes, sir.

Q. Your principle purpose in scattering these machines out is to have good responsible agents in the same community? A. Yes, sir; it is.

Q. Mr. Yancey, in so far as you know, did the International Harvester Company of America retain a large portion of the employees agents, both local and block men that these six different companies formerly had? A. Yes, sir, a very large per cent. of them.

Q. What per cent. would you say? A. It is impossible to put it in per cent., but I would say 90 per cent. or more, of the former local agents and employees of the companies.

Q. And they still in a general way retain these? A. Yes, sir.

#### CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. How much territory do you have in your district? A. You mean in my general agency, 25½ counties in the general agency, of which 16 counties are in Missouri.

Q. Sixteen Missouri counties are in your general agency? A. Yes, sir.

Q. In what section of the State are these? A. West and central, tributary to Kansas City, immediately around Kansas City.

Q. If you would draw a circle there would be as many northeast and south of Kansas City? A. Yes, sir, practically so.

Q. The rest of your district is in the State of Kansas? A. Yes, sir.

Q. You have been a general agent you say ever since 1890? A. Yes, sir.

Q. And since 1902 and 1903 you have been a general agent of the International Harvester Company of America? A. Yes sir.

Q. As such have you had anything to do with the manufacturing of goods? A. Yes, sir.

Q. With the cost of manufacturing? A. No, sir; nothing.

Q. With costs of materials that go into the manufacture? A. No, sir.

Q. With the cost of labor that go into the manufacture? A. No, sir.

Q. Then your statement of the cost of manufacture has not been from experience? A. Just general information press reports and oral and otherwise.

Q. Which is not in the line of your employment? A. No, sir.

Q. Has it ever been? A. No, sir; it is not in the purview of my duties at all.

Q. Now, Mr. Yancey, about the price of wagons since 1902, between 1902 and 1908, did the price of wagons increase? A. I think they increased.

Q. That is between 1902 and 1908, the prices of wagons increased? A. Yes, sir.

Q. Substantially? A. Not substantially, but slightly.

Q. But in 1908 you think there was a recession in prices? A. Yes, sir; a special discount or allowance that we made a decrease because of over-production.

Q. After that temporary recession of prices, how has been the price of wagons since then? A. They have been restored, and it is higher, or as high, as in 1903.

Q. There has been an increase since 1902? A. Yes, sir; excepting in 1908.

Q. How many binders are there you sell? A. Grain and corn binders.

Q. The larger proportion was grain binders? A. Yes, sir.

Q. I understood you to say you sold something about 900 grain binders? A. Yes, sir.

Q. And how many corn binders? A. Fifty to seventy-five.

Q. Now, of these harvesters, what per cent. of your total business in your district is made up of these grain binders and corn binders? A. The total per cent.

Q. Of your gross sales, what would be made up of the binders? A. About, I should say,  $22\frac{1}{2}$  to 25 per cent.

Q. From  $22\frac{1}{2}$  to 25 per cent. of your total business is made up of the harvester grain and corn binders? A. Yes, sir.

Q. The mowers, what per cent. of your total business is made up of mowers? A. Well, I should say from 13 to 15 per cent. approximately.

Q. I understood you to say, Mr. Yancey, that the increase in price of the harvesters was in 1908 for the season of 1908? A. Yes, sir.

Q. And that was the only increase in price since 1902? A. Yes, sir.

Q. I understood you to say the average increase was about five per cent? A. Yes, sir.

Q. You stated, as I recollect, that the price of the harvester was \$107.50, and the former price \$100.00? A. Yes, sir.

Q. Was that present price for the time payment or cash? A. A time price or two fall payment plan, formerly subject to a five per cent. discount, now to a seven per cent. Now the increase from \$100.00 to \$107.50 was a two fall price, subject to a five per cent., and now seven per cent., and so now it represents a net increase of five per cent. We increased it to \$107.50, the net price is only five per cent. increase.

Q. Mr. Yancey, prior to 1902, you represented the Deering Company alone? A. Yes, sir.

Q. For quite a number of years, twelve years? A. Since 1890.

Q. That would be 12 years? A. Yes, sir.

Q. Now, during that time, that you handled the Deering, did you handle the repairs parts of any other machine? A. No, sir.

Q. What is the rule in your district now as regards a man that handles the Deering machine with regard to repair parts on any other machines, Plano, McCormick or others? A. They are practically the same; in making the contracts for the Deering machine the man can have all the repairs of any other machine, if we had no other man handling that line.

Q. Prior to 1902, if he formerly had the McCormick machine he could not get from you handling the Deering any part of his machine? A. No, sir.

Q. Supposing there is a man that handles only the Glessner, but there are farmers who have the McCormick or the Plano, and he needs repairs, can he get them? A. Yes, sir.

Q. If a man handles only the one machine he has the repairs, all the repairs of the other machines? A. Yes, sir; and they are immediately accessible and available for all machines.

Q. Were there any towns in 1902 that sold machines to the farmers that do not sell now? A. I think not.

Q. That is, there are nearly as many dealers now as in 1902, and before then? A. That is right; nearly as many, if not more.

Q. Where, in a local town now, Mr. Yancey, you have—there are four or five men, local dealers, handling the Plano, and one handling the McCormick and one the Deering, is there any competition between these men? A. Yes, sir; active competition.

Q. Now, as far as the farmer is concerned, how does that competition benefit him as compared to prior to 1902, when they were separate concerns? A. There is no great difference; the local dealer works almost as hard now as he did prior to 1903; he goes out and tries to sell his machine, and we furnish canvassers to aid and assist him and furnish him with printed matter and mail out special circulars and posters to individual firms whose names he might furnish, and an active campaign is made between them.

Q. Take the average farmer in the community, was there a benefit to him formerly? A. I should say to the average farmer it was not; it was usually the shrewd fellow or man of importance or man of money that usually got these prices and reaped the reward coming from the harvester war; I do not think the average farmer was benefitted. To explain, that in the days of the war, that we called it, if the agent sold at a cut price to one or two prominent men he tried to average it up with a higher price. The average general run of farmers did not pay very much more, if any, for their machines until the advance of 1908 was made.

Q. That is, what you call the war prior to 1902 here and there a farmer either by reason of his keen bargaining or some strategic position he held might reap a decrease in price of his machine caused by a tremendous competition among agents, but what that man gained in price, the other farmer had added on to his price at the next sale? A. That was the general purpose and intention.

Q. So that the competition I understand you to say is now as great as it was prior to 1902, so that the price to the farmer as a class between 1902 and 1908 was not greater than before 1902? A. No, sir; no greater.

Q. You are clear about that? A. Well so far as my knowledge goes in my territory.

Q. When you give a local agent a territory I understand you would appoint a local agent in Jefferson City, you would give him that and the territory tributary? A. Yes, sir.

Q. Now supposing he sold a farmer down at Chamois a machine? A. We have no way of preventing and would not prevent it.

Q. In other words, while you give him a town and territory tributary, he is free as far as you are concerned to sell wherever there is a customer? A. Yes, sir; since 1905 or 1906 when the exclusive clause was cut out.

Q. Before was it ever enforced? A. It was in the contract but not enforced.

Q. How long has it been since the Minnie Harvesters were sold in Missouri? A. It has been several years but I cannot tell you just how long.

Q. What do you mean by several were they sold in Missouri immediately prior to 1902? A. Yes, sir; I think up to 1901 or 1902 some where along there.

Q. Is there any regulator upon the local agent as to what prices he should sell? A. No, sir; not since 1905.

Q. Prior to that time was there, if not actually practiced, any regulation as to what he should sell? A. Yes, sir; there was a suggested minimum retail price.

Q. 1905? A. Yes, sir; and prior.

Q. How many agents have you got in your territory? A. Well of course my books show both Kansas and Missouri about sixty per cent is in Missouri. We have 350 agency contracts in Missouri.

Q. In the sixteen counties in Missouri? A. Yes, sir.

Q. When did the International Harvester Company of America commence to sell wagons in Missouri, do you remember? A. I was unable to give that answer a while ago, I do not remember the year, no, sir.

Q. Do you remember about hay tools? A. We began to sell hay tools in 1905 other than sulky hay rakes, we sold them always, that is really a hay tool.

Q. If you give in a town all of the lines to a single man when you had several men in the town to whom you could give individual lines, would there be the same competition if one man held them all and if you divided them up? A. No, sir; if one dealer had all the lines or a majority of the lines, he would not work as hard, it is really to the advantage of the agent to have one line.

Q. In a town where you have an agent or agents, the price to the agent is fixed? A. Yes, sir.



## RE-DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. I would like for you to state when there was an increase made in the price of wagons, what year after 1905? A. I could not tell without reference to my prices and records at home.

Q. Do you know as a matter of fact there was an increase made?

A. My general recollection is there were two or three.

Q. From 1905? A. Up to 1907.

Q. To what extent was that increase? A. I should say from five to ten per cent.

Q. I understood you in the direct examination to state there had been no increase in the price of wagons from 1902 up to the present time?

A. If I stated that I did not correctly understand the question I think there has been an increase of price and a recession in 1907.

Q. What is the wagon most frequently used in Missouri sold at to the dealer? A. Three and a quarter inch cast skein, is the principal leading wagon.

Q. What is the price of that wagon to the dealer at this time?

A. That wagon is in single lots f. o. b. Kansas City about \$62.00.

Q. What is the price of that machine last year? A. Wait a minute, I am mistaken about that, I could not tell without reference to the records.

Q. You mean the price of that wagon was \$62.00 to the dealer?

A. Yes, sir; I think it is more than that.

Q. That is the wagon that is principally sold to the farmers of this state? A. Yes, sir.

Q. You don't know the price of that machine last year? A. The wagon, pardon me, not without reference to my price list at home.

Q. Nor the prices in 1907 or 1906? A. No, sir; the wagons are chiefly sold by our block men we write them for the price bulletin and of course they conform to our prices, I do not charge my memory with them.

Q. You cannot tell as a matter of fact there has been any increase in the price of wagons since 1905? A. Yes, sir; my recollection is, there has been two advances in wagons since 1905. Probably 5 to 10 per cent each time and that receded again in 1907 or 1908 when we made some concession in price which has been now restored.

Q. Have you any means Mr. Yancey of furnishing us with the price at which these wagons sold last year and this year and since 1905, can you do that within the next day or two? A. I could get my wagon bulletin price list from Kansas City, I think I can.

Q. We will be glad to have you produce that, you stated that the gross per cent of the business done by your company in Missouri, that of all your gross per cent, your binder business was about what?

A. 22½ to 25 per cent.

Q. What per cent of your business was the binder business in 1903? A. I could not tell you, it was larger than that.

Q. Considerably larger? A. Yes, sir.

Q. Because since that time you have taken on additional lines?  
A. Yes, sir; it has added to the volume of business.

Q. Would you not say from your general knowledge of business that your binder business constituted as much as 60 to 75 per cent of the total business done by the International Harvester Company of America?

A. No, sir; not binders alone.

Q. And mowers? A. You see twine runs into dollars pretty fast, that cuts quite a figure.

Q. Eliminating twine, taking farming implements? A. Yes, sir; the binder and mower business in 1903 would constitute 60 per cent of the business done by the International Harvester Company of America in Missouri.

Q. At the time these companies were bought out? A. Yes, sir.

Q. Now Mr. Yancey what per cent of binders and mowers that you sell in this state is paid for in cash by the farmer? A. I should say 80 to 85 per cent are paid for in cash before the end of the season.

Q. On binders and mowers? A. Yes, sir.

Q. You mean to say that in these years passed that you will only take about 15 per cent of the aggregate business in notes? A. That is about all, about 15 to 20 per cent.

Q. Well what per cent did you take, say before 1902 with the Deering people? A. I took a larger per cent.

Q. Of notes? A. Yes, sir; and less per cent of cash.

Q. What per cent? A. That is purely conjectural. I should say 20 to 25 per cent because the farmers are in better shape now and are able to pay cash for the machines whereas of that date the farmer asked for time. A number of these farmers got the machines from the dealers and did not pay for them until October after they cut their crop.

Q. Did you give them the benefit of the discount then? A. Yes, sir.

Q. That discount is made to the farmer? A. Yes, sir.

Q. Or is it made to the dealer? A. The dealer gets a two fall price and a cash price, if the farmer pays for his machine before October, sometimes November the farmer gets the benefit of a cash price.

Q. That is with the agent? A. Yes, sir.

Q. Do you have anything to do with the agents in allowing that farmer that discount? A. No, sir; none whatever.

Q. As far as the discount goes it is a relation between him and the agent and not between you and the farmer? A. No, sir; but it is generally known by the farmer.

Q. Did you not sell your six-foot binder in 1906 for \$95.00? A. That is the cash price, 5 per cent discount, \$95.00 cash.

Q. What is your price now to the dealer when he pays cash? A. \$107.50 less seven per cent, formerly it was \$100.00 less five per cent.

Q. Now you stated in instances where you have but one agent and if he was handling but one machine that that agency kept a full line of repairs for all the other machines? A. It does not always keep a full line of repairs for all the machines in stock but he has the privilege of ordering.

Q. The farmer had the privilege of ordering from the companies for their repairs as the dealer now has? A. No, sir.

Q. You mean to say if the companies did not have an agent in their locality they would not ship the farmers repairs? A. Yes, sir; they would do it but generally they shipped it to the closest local dealer.

Q. Now it is a question of ordering through one agent or another agent rather than through himself? A. Yes, sir; under the old plan if there was an agent say real near, McCormick's repairs could be ordered but now he has the privilege to order for all machines, hence the repairs are more accessible than before.

Q. You state that the competition is now as fierce as before? You send canvassers to aid these men? A. Yes, sir.

Q. Do you have a canvasser for the Osborne, the Plano and for the McCormick? A. Not throughout the season, we employ them for these lines and when they go to a town where that line is not represented they work on the others.

Q. How about when they are all where they are all represented? A. He works on the lines where the McCormick is if he is a McCormick man, he goes where the agent is.

Q. Do you employ them as canvassers for the McCormick or the Plano? A. I do not any more.

Q. Yet a canvasser goes into a town where all six canvassers or companies are represented by one agent and he is put into the attitude of competing with himself? A. Yes, sir; I take an old experienced man that has handled the McCormick prior to 1903 and I generally work him on that line because he has knowledge of that particular line and when he goes into a town that it is not represented, he pushes the other lines.

Q. I am talking about when all the lines are represented? A. He assists the one agent only but I send another man to assist the Deering.

Q. Then you have really different canvassers for different machines in places where you have different local agents? A. To that extent we do.

Q. Do they go out and cut prices when you send the McCormick and the Deering both? A. The canvassers have no authority to make a price or cut a price. He is under the direction and control of the local dealer, the local dealer sets the price and he must sell at what he says.

Q. Prior to 1902 the canvassers did cut prices? A. He had no authority to.

Q. Did he not cut the price and then give the agent the same commission as he would have gotten if that price had not been cut and the company cut the price to the agent to the extent the canvasser reduced the machine to the farmer? A. It might have and presumably was done at the suggestion of the canvasser, I do not think he ever possessed the authority to cut the price.

Q. But the company gave the dealer the benefit of the cut price in lots of instances? A. Yes, sir.

Q. And in that way the company would recognize that cut on the part of the canvasser? A. No, sir.

Q. That is no longer done? A. No, sir.

Q. Now you say if you give all six of these machines to one dealer he would have no ambition to go out and sell? A. He would have no one to compete with?

Q. Is it not a fact if you gave it all to one agent and if the independent concerns were represented, would he not have the same? A. Our experience is he would not be as active as if he had one machine.

Q. You prefer to give to these principal responsible agents have them handle your machines as your agents so as to have the competition on your machines and not with the Independent? A. Yes, sir; naturally.

Q. That is the purpose of it? Going to a town and selecting responsible agents? A. We do as any other first-class jobber or manufacturer would do, select the best men most responsible we can.

Q. Even if that results in the Independent Company not finding any? A. We don't go around and seek for any for them.

Q. That is the reason in having these agents to avoid that condition? A. That is the way it used to be before the International Harvester Company was formed, the buggies and the plow house do that today.

Q. I believe you stated you had about 350 local agents in sixteen counties? A. Approximately.

Q. At how many places have these agents competition with the independent companies, how many of these agents? A. Well counting binders and mowers both, there are quite a number.

Q. How many out of 350 that have competition in their home town, that is with the independent companies, not with your machine? A. I should say 75 per cent counting binders and mowers, not with the binders alone.

Q. What per cent on the binders? A. 40 on binders and 75 on mowers, there are more mower companies than binder companies.

Q. Mr. Yancey if the character of competition now is as active in these companies as they were prior to 1902, why do you refer to that as the war period? A. That was when the competition was between the companies.

Q. The competition now you refer to is merely between the agents? A. Necessarily so.

Q. There is no competition now between the companies? A. I have never known of a case where a company was at war with itself.

Q. Do you know at what price the dealer generally sells to the farmer the six-foot binder? A. I think about \$120.00 to \$125.00.

Q. Now is that when he pays cash? A. Well, yes, sir; the cash price, the binders in most localities, it varies in the localities, it depends on the agents, I am told some get \$125.00 cash and some \$120.00 and some get \$130.00 on two fall payments but having nothing to do with the retail business, we only get that from what the men tell us.

Q. The dealer must also pay the freight? A. Yes, sir; f. o. b. the prices are made.

Q. Chicago? A. Yes, sir; in the case of the McCormick, Deering, Plano and Milwaukee.

Q. Do you know what the freight on that six-foot binder is from the factory to Jefferson City? A. If shipped in car load lots as is usually the case with agents, I should say it would be about \$4.50.

Q. Now if it is shipped separately? A. Then the rate would be if he took less than a car load lot, probably be 35 to 40 per cent more than that.

Q. It would run up to \$6.00? A. Yes, sir; between \$5.00 and \$6.00.

Q. Now if the machine is shipped in car load lots, that is \$112.50 and if the dealer sells for \$120.00 the only place wherein there is an opportunity for a cut price is on the price from \$112.50 to \$120.00 or \$8.00 that is, about right. That is all that is allowed? A. The agent is allowed and actually receives from us all he gets for the machines above what we charge him for, after that it may be little or more according to what the retail price is he makes of his own accord. Some dealer who is a good merchant sells that machine for \$125.00 to \$130.00 whereas another dealer with less thriftiness would sell it for less.

Q. Was the freight paid on machines to any points prior to 1902? A. I think not, certainly not with the Deering.

Q. You say the company prior to 1905 fixed the price? A. I say we suggested the price, that was done more directly at the special request of the dealers themselves through this association of theirs that meets in Kansas City and which is called the Western Retail Dealers Association.

Q. That was prior to when? A. 1905.

Q. Do you know anything about what became of the property that was owned by the different companies prior to 1902? A. They were bought by the International Harvester Company, that is, the property in this state.

Q. What do you mean? A. The principal property or real estate.

Q. Real estate, warehouses, and everything of that character? A. I think they were purchased by the International Harvester Company of America.

Q. Do you know anything about that? A. No, sir; these real estate records are kept at the Chicago office.

Q. You don't know anything about the warehouses the different companies have? A. I know the McCormicks owned a warehouse in Kansas City, I understood the International Harvester Company of America owns it now.

Q. That property was transferred not to the International Harvester Company of New Jersey but to the International Harvester Company of America? A. I cannot state that.

At this point a recess was taken until 2 o'clock p. m.

Afternoon recess 2 p. m.

Examination of Mr. Yancey resumed by Hon. Charles G. Revell on behalf of the informant.

Q. Mr. Yancey has there been any increase in the price of repairs since 1902 on binders and mowers? A. Up to the present?

Q. Yes, sir? A. There has been a readjustment of prices, some of the parts called repairs used on machines were becoming obsolete and out of date and the price list had been changed and readjusted and some prices had been lowered and others slightly increased, I do not think that the average would net an increase.

Q. Has the increase been on the repairs that is most frequently necessary and most frequently purchased? A. No, sir; the knives and cycles and cutting sections are most used on binders and mowers, they are as cheap and cheaper than they have been since I have been connected with the business.

Q. Well on what repairs has there been an increase? A. That would be impossible to tell without referring and comparing the price list for some years back but my general recollection is that the readjustment of the prices, the lowering of some and raising of others would not result in very much net change, we are selling sections of cycles and knives as cheap and cheaper than we have sold them.

Q. In saying that fixed territory was not assigned to each local agent and you did not adjust controversies between agents, during what years did you have reference to, to what years did you have reference? A. Well more particularly since 1905.

Q. Since 1905 you have not then assigned fixed territory to each particular agent? A. Only as stated in the contract, trade tributary to the local agents town, trade tributary thereto. That is written in all of our contracts.

Q. Was not this clause contained in all of your contracts up to and including 1907? "You must sell only to the retail trade and must not directly or indirectly sell or offer for sale any machines to parties outside of the within named territory under penalty of forfeiture of all commissions to the agent in whose territory the purchaser resides, but in no case is the said International Harvester Company of America to be liable for any trespass by one agent upon the rights of another except as said company at its option may first collect the same from said other agent?" A. That clause has substantially been in the contract up to that time.

Q. Then in pursuance of that did you not assign the territory the contract calls for? A. You will see in the face of that contract the town and the tributary thereto and what is tributary we leave to him and not us.

Q. Have you in any instances enforced the provisions of this contract providing for trade tributary? A. I cannot remember I ever forfeited a contract because of that clause.

Q. Have you ever forfeited the commissions of some agents of sales he made in any other territory? A. I cannot remember I did.

Q. But that clause is in all of your contracts A. Yes, sir; I think so, but you will see that the town is there and the trade tributary thereto and we leave to him to judge, what trade is tributary usually whoever comes to that town.



Q. Is not this the language of the contracts that you have always had: "Said company hereby appoints said \_\_\_\_\_ its sales agent under the limitations and restrictions herein specified for the sale of its harvesting and mowing machines, hay racks, cycle grinders, binder twine, attachments and repairs in the following described territory, to-wit." A. Yes, sir.

Q. There are blanks left here for the territory? A. Yes, sir.

Q. Did you not fill them out? A. Always.

Q. Do you fill in the name of some town? A. The town and trade tributary thereto.

Q. Is that always the language used? A. Pretty near, not always, perhaps we used another word that means practically the same thing, some said Janesville and vicinity, others Janesville and trade tributary, which is the same thing.

Q. Under that provision the man that had the agency at Washington and came into Jefferson City, that town being named in the Jefferson City contract, you would forfeit the commission on the Washington man's sale? A. That contract calls for that, I don't know as I ever enforced that clause.

Q. Do you recall having complaints of that character? A. Oh! yes, sir; quite often, quite often the agent would write that his neighboring agent was infringing on his territory. The usual course was to refer it to the block man and he would have a talk with them and he would use his influence to bring about a better feeling.

Q. He would do that at your instance? A. Yes, sir; he would not forfeit the contract or collect the commission that the other agent had, I cannot recall a case we ever did that.

Q. Has not the International Harvester Company of America at least two distinct cream separators? A. In the cream separator we have two types one The Dairy Maid is chain drive and The Blue Bell is gear drive, but the bowl is substantially the same, just a difference in the application of the power, both turn with a handle, one the power is transmitted with a chain and a sprocket wheel and the other with a cog gear and a man can have his choice, the separating device is the same thing.

Q. Do you not have hay stackers practically alike and stamped Plano, McCormick etc. A. Yes, sir; they are made different in detail, one is a steel mast and one a wood mast, but they perform the same purpose.

Q. Have you not on manure spreaders two separate and distinct machines that is stamped differently but that are practically alike? A. Like cream separators we have two types of manure spreaders, we have the Corn King which has a return apron when the machine is loaded with manure, the apron carries it to the drum of cylinder which has teeth to cut it up and distribute it and then unload, the apron then returns to the starting point. The Clover Leaf is an endless apron spreader, the apron goes around and around and does not return.

Q. Have you not two that are alike, that are stamped alike? A. No sir; we have the Kemp, Twentieth Century, that is a return apron spreader also and is alike in the same respect and detail.

Q. You mean in hay stackers, gasoline engines and sweep rakes, you have no two that are alike and yet stamped with different names? A. Yes, sir; on sweep rakes, on two or three wheel power we can stamp the name Deering or McCormick, they are substantially alike.

Q. What is the purpose of that? A. Well sometimes McCormick agents selling McCormick machines prefer to have that name on them, that is all, he does not change the machine in any way.

Q. What machine besides binders and mowers do you sell on the commission plan? A. We sell grain and corn binders and reapers and mowers and huskers and shredders, that is about the commission line.

Q. The balance you sell directly to the dealer? A. Yes, sir; we refer to them as sale goods or net goods.

Q. In any of these instances, do you sell directly to the farmer or do you sell exclusively to the dealers? A. Our purpose is to sell directly to the dealers, sometimes there at Kansas City I sell directly to the farmers there.

Q. Do you know any places where you have any agent and where an independent company is represented, you sell directly to the farmer or consumer? A. No, sir.

Q. Not in any instance? A. None that I can recall.

Q. In fact there are not many places in your territory where there are independent agents but what you have agents? A. Very few, it is our purpose to have as many agents and make the machines as accessible as possible to the farmer and serve them well.

Q. Do you now take old machines in part payment for new machines? A. Seldom if any, I don't know as we do on commission machines, sometimes in net sales.

Q. I mean on harvesters, binders and mowers? A. I think not.

Q. That was done prior to 1902, was it not? A. It was to some extent by the companies, but mostly by the agents themselves, the companies sell them.

Q. Was not that pretty generally done prior to 1902 by the companies? A. No, sir; I do not think the Deering people did.

Q. Did any of the companies take these machines in from their agents for the price they had allowed the purchasers? A. Sometimes during the war I referred to, they made the agent an allowance of the machine they took in, but seldom moved it from the place, that machine was carried as the property of the company and not the agent.

Q. In every instance was it carried as the property of the company generally? A. Not very much value.

Q. Prior to 1902 was it not a pretty common practice on the part of other companies to take old machines in at fancy prices? A. That was reported to us by our agents and journals, we never knew the exact truth of the matter, often times they complained of not getting their part of the business and they stated that McCormicks or Planos were making big allowances for old machines and often times it was proved not to be true.

Q. So far as your experience went, was it not an evil you had to deal with? A. I did very little of it.

Q. In so far as the practice of the other companies in doing that, it was not an evil you met with in selling your machines in competition with others? A. Yes, sir; we had reports from a great many towns that competitors were offering to trade for old machines or make the agent a substantial allowance for old machines.

Q. I understood you to say you found but few instances where you found that done? A. That I made an allowance for an old machine.

Q. In reference to the instances in which you were informed as to the other companies doing that, did you find from your examination that they were doing that or were these reports false? A. Quite generally they were doing that. I don't know but as they did as I said they probably did not ship them in, they left them in the hands of the local agents.

Q. Did you have any regular scale of prices that was given your agents that so much would be allowed for a machine of such and such a year and so much for another year? A. No, sir.

Q. None of your block or local agents had any such list? A. No, sir; I never used a list or schedule of that kind.

Q. You never had any knowledge of such a list being furnished to your local men? A. No, sir.

Q. Are these different machines, McCormick, Plano, etc. shipped from the same points that they were originally shipped prior to 1902 excepting the Plano and Milwaukee? A. Yes, sir; excepting those two.

Q. The factories as maintained prior to 1902 are still maintained, the way they were at those places? A. Yes, sir; with these two exceptions.

Hon. Charles G. Revelle, Counsel for Informant:

In looking over this record I have not been able to find where these various contracts have yet been offered as I suppose they had been.

Hon. Selden P. Spencer, Counsel for Respondent:

They were attached to our answer, 1905 and 1906.

Hon. Charles G. Revelle, Counsel for Informant:

How about 1907?

Hon. Selden P. Spencer, Counsel for Respondent:

I don't know.

Q. Will you examine that instrument and state what it is? A. That is what we call a commission agency contract for the season of 1908.

Q. Now in what respect does your contract of 1909 differ from that, if any? A. So far as my memory serves me it is very little difference.

Hon. Theo. Brace, Commissioner:

Do you want to offer that as an exhibit?

Hon. Charles G. Revelle, Counsel for Informant:

Yes, sir; we offer the contract for 1908 as an exhibit and ask that the same be marked Exhibit No. — by the stenographer and the same be copied into the record.

Said Exhibit No. — being the Commission Agency Contract of the International Harvester Company of America for the season of

1908, here appears attached to the record in words and figures as follows, to-wit:

1908.

Form No. C. 634. 110M-7-8-07.

.....Machine

# COMMISSION AGENCY CONTRACT, 1908.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, a corporation having offices in Chicago, Illinois, hereinafter designated "COMPANY," and \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_ and State of \_\_\_\_\_ hereinafter designated "AGENT," agree and contract this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 190\_\_\_\_, as follows:

Said COMPANY hereby appoints said \_\_\_\_\_ its SALES AGENT under the limitations and restrictions herein specified for the sale of its \_\_\_\_\_ line of grain, corn and grass harvesting machinery, more particularly enumerated in schedule referred to in Article 7th of this contract, together with repairs for same, in the following described territory, to wit: \_\_\_\_\_ during the season ending December 31st, 1908.

Said AGENT accepts such agency and in consideration thereof and for the commission herein agreed to be paid, expressly agrees as follows:

1st. To receive all goods shipped and under this agreement, to pay freight on same from Chicago; keep the same well housed and in good condition, and to make good any damage resulting from the improper handling or storage of same until sold or re-shipped; to keep the same free from all charge and expense to said COMPANY, including all taxes which may be assessed on such goods carried over in said AGENT'S possession from the preceding year. To collect from the purchaser the freight on all goods sold or assume the loss of same, and in no case to charge said COMPANY with any sum or sums for freight, handling, storage or other expenses, except provided that in case said COMPANY shall remove or transfer any goods received under this contract, said AGENT shall be entitled to the actual freight paid when the goods were received.

2d. To deliver, set up and fairly start every machine sold, and to instruct the purchaser how to adjust it to work in different kinds and conditions of crops. To pay all livery expenses that may be incurred by experts or canvassers furnished by said COMPANY while assisting said AGENT.

3d. To sell to good and responsible parties only, on such terms as may be prescribed in writing by said COMPANY or its GENERAL AGENT, and to draw all notes, taken on sales, payable to the order of INTERNATIONAL HARVESTER COMPANY OF AMERICA, upon blanks furnished by said COMPANY for that purpose; said notes to bear interest at the rate prescribed in schedule of prices and terms referred to in Article 7th of this contract. Notes found to be good and collectible, and executed by purchasers of machines in accordance with the terms of this contract shall be accepted at the time of settlement. Notes found at time of settlement to be not in accordance with the terms of this contract shall be replaced by said AGENT at that time with cash or other notes acceptable to said COMPANY.

4th. To settle with the purchaser for each machine or other article sold hereunder by receiving, AT THE TIME OF DELIVERY, either all cash or part cash and part note or notes; and in case said AGENT shall deliver any machine or other property mentioned herein for use in the field, or permit the use of any thereof before it is fully settled for by cash or good and collectible note, said AGENT shall account for and pay to said COMPANY on demand the full price of the same, together with interest thereon from October 1st, 1908, and also all costs and expenses incurred on account of same, and without any claim for commissions from, or under any warranty by, said COMPANY.

5th. To take a signed order from each purchaser, on blanks furnished by said COMPANY, and to use or give no warranty on any such machines other than the regular warranty which is incorporated in machine order blanks for goods furnished by said COMPANY. To be governed by the printed instructions on the back of this contract which are hereby made a part of the terms and conditions hereof.

6th. To furnish said COMPANY, or its said General Agent, whenever called upon, a full and detailed account of all sales made under this contract, on such blank

forms as shall be furnished by said COMPANY, or its said General Agent for that purpose, and to make a full and complete settlement whenever called upon by said COMPANY, or its said General Agent.

7th. Said COMPANY agrees to pay said AGENT as commission on machines and attachments sold, an amount equal to the excess in the total proceeds received from sales of said machines and attachments (as shall be shown by account sales), over and above what said machines and attachments amount to at the net prices named to AGENT in separate schedule of net prices and terms, issued or to be issued by said COMPANY for the season of 1908 under this contract, and such prices are subject to increase in accordance with the conditions set forth in said schedule.

8th. Commissions shall only be paid on machines sold and settled for, and none shall be paid on machines returned, condemned, or on orders not filled, nor on attachments sold or furnished gratis with machines; and in case sales are made to parties who are discovered or adjudged by said COMPANY, or its said General Agent, to have been doubtful or worthless at the time of sale, the notes taken for such sales shall be received by said AGENT to apply on payment of commissions due upon sales recognized and approved by said COMPANY without recourse to said COMPANY, or to the property for which said notes were given, or to any title reserved therein, or property pledged to secure notes accepted by said COMPANY; and if the machine account at time of settlement is overpaid by notes, such surplus notes shall be received by said AGENT as payment in full or in part of commissions due.

9th. Said AGENT shall receive as commission on sales of repairs thirty per cent of the list price thereof, as fixed by said COMPANY'S price list of repairs for these machines for the current year, and said AGENT agrees to pay all freight or express on same.

10th. IT IS FURTHER EXPRESSLY AGREED, that said AGENT is to receive in the capacity of AGENT of said COMPANY and not otherwise, all goods shipped under this contract, and all moneys, property or other securities taken in payment for machines, attachments, repairs, or other property sold by said AGENT for said COMPANY.

11th. Said AGENT further agrees under this contract not to retain, on account of commission or any other claim against said COMPANY, any moneys, notes, or other property received from the sale of any articles hereunder or from collections on notes or accounts, but to promptly remit all moneys, notes, or other property to said COMPANY, or its said General Agent, leaving commissions and all other claims to be adjusted at settlement.

12th. IT IS MUTUALLY AGREED, that said COMPANY shall at all times have entire control over all machines, orders, contracts, accounts, notes, moneys or other property accruing and growing out of the sale of said machines, repairs or other property, and may at any time, when it considers its interests are neglected or jeopardized, without notice, annul and terminate this contract, and take possession of all orders, notes, accounts, moneys and machines in the possession or under the control of said AGENT by virtue thereof; and said AGENT hereby waives and releases all right of action for damages because of such cancellation of contract.

13th. Said COMPANY agrees to use its best effort to complete and ship all machines ordered, and to supply all attachments and repairs ordered under this contract so long as its stock shall last, but it shall not be held responsible to said AGENT for any damage in case performance of this contract is rendered impossible by act of God or by the law, or by the decree or judgment of any court, or if the demand for any of said machines, attachments or repairs shall exceed the supply thereof possessed by said COMPANY—whether such insufficient supply results from interruptions by fire or other element, riot, strikes, labor disturbances, delay in transportation or any other cause whatsoever.

14th. Should this contract not be renewed, the said Agent agrees to hold all unsold machines, attachments, repairs and other property subject to said Company's order for a period of ninety days from the expiration of this contract and otherwise subject to the conditions named in Article 1 hereof.

15th. IT IS FURTHER AGREED, that this contract shall, in no case, be valid and binding upon said COMPANY, of the first part, until the same shall have been

approved by the General Agent, and also that it cannot be subsequently changed, in any of its provisions, in any manner, either verbally or otherwise, by any person, without the written approval of the said General Agent.

**INTERNATIONAL HARVESTER COMPANY OF AMERICA.** [SEAL]

Approved at.....190.. By.....Travelling Agent  
INTERNATIONAL HARVESTER CO. OF AMERICA.

.....[SEAL]  
.....[SEAL]

By.....  
General Agent.

**SECURITY BOND.**

In consideration of the appointment and retention of the within named agent of INTERNATIONAL HARVESTER COMPANY OF AMERICA, for the sale of its harvesters, binders, reapers, mowers, huskers and shredders, attachments, repairs and other property in certain territory, the undersigned jointly and severally guarantee the fulfillment by said Agent of all the obligations and duties growing out of or relating to such agency that now or hereafter may exist, and we agree to pay said COMPANY, its successors and assigns, all damages it or they may sustain by reason of any default of such Agent; and we hereby waive notice of acceptance of the within commission contract, and of this guaranty, notice of default of the within named Agent, demand and diligence; and hereby agree that the written acknowledgment of or a judgment of any court against said Agent, shall in every respect, bind and be conclusive against the undersigned, their heirs and legal representatives; and that the liability hereby created shall not be waived, modified or cancelled by any extension of time to pay or keep any part of said obligations or duties, nor, except by an instrument in writing, executed by said COMPANY or its General Agent, cancelling all liability hereunder and delivered to the undersigned. No agent has authority to vary the terms of this contract of guaranty.

Witness our hands and seals.....A. D. 190..

P. O.....[SEAL]  
P. O.....[SEAL]  
P. O.....[SEAL]

.....MACHINE

Form C 634.

.....190..  
Date of Contract.

1908

**COMMISSION AGENCY CONTRACT**

**INTERNATIONAL HARVESTER COMPANY OF AMERICA**

(Incorporated)

With

.....Agt.

P. O.....  
Business Point . . . . .  
County of . . . . .  
State of . . . . .  
Shipping Point . . . . .  
Railway Co. . . . .  
Express Point . . . . .  
Express Co. . . . .

**ESTIMATED SALES FOR 1908.**

.....Grain Bdrs. . . . . Corn Bdrs.  
.....Mowers. . . . . Shredders.

Signed . . . . .  
Travelling Agent.



## INSTRUCTIONS.

THE following instructions to agents are made a part of the within contract.

1st. We furnish you a reasonable amount of printed matter free of charge, delivered at the express office at Chicago, you to pay express charges on the same. We will not pay for newspaper or other advertisements unauthorized by us; neither will we pay for any printing of any kind whatever, except that furnished by us from our office.

2d. We will not pay any charges for telegraphing, except for answers to messages sent by us, or unless it be in reference to parts short on machines shipped by us, or a similar case in which we are entirely at fault; and in such case dispatches may be sent to us C. O. D.

3d. Our Canvassers are sent to assist you and are not invested with authority to change prices or terms; consequently at time of settlement we shall consider their acts, so far as all matters affecting your contract with us, as having been done by your direction and approval.

4th. You must give every purchaser one of our printed warranties with each machine you sell.

5th. Should any part of machines shipped you prove defective from flaws, poor material, or bad workmanship, said defective parts may be charged back to us; but in all such cases the broken or defective parts must be exhibited at settlement to the authorized agent of this COMPANY, who shall return them to the General Agent. A complete list of all parts given free must be kept on blanks furnished by us for that purpose; this list at settlement to be subject to the approval of the General Agent herein of this COMPANY, and only such parts will be allowed as are approved.

6th. We do not agree to furnish repairs gratis after the first season, and then only such parts as are needed to replace those that have proved to be defective.

7th. Knives, sickles and sections are not warranted, as they are always liable to be broken or damaged by improper usage, and **MUST NEVER BE GIVEN FREE**.

8th. You must sell all extras for cash only, and in no case to charge the purchaser more than the list price unless the part or parts are ordered by express especially for him.

9th. In no case is the said INTERNATIONAL HARVESTER COMPANY OF AMERICA to be liable for any trespass by one agent upon the rights of another.

10th. You must not exhibit, or furnish for exhibition at any Fair, any machines received under this contract, without the written consent of this COMPANY or its aforesaid General Agent.

11th. All men in the employ of this COMPANY are furnished money sufficient to defray their expenses, and we will not be responsible for any money you may advance to them.

12th. AGENT shall send promptly at the time of shipment to INTERNATIONAL HARVESTER COMPANY OF AMERICA, at ——— a duplicate shipping receipt for each shipment made.

13th. AGENT is strictly forbidden to take any part from any machine for the purpose of supplying customers with repairs.

14th. We will not carry to a succeeding year any canvases or other repairs indicated in catalogue by a star prefixed to number. For all such parts, shipped on your order, you must pay at settlement.

INTERNATIONAL HARVESTER COMPANY OF AMERICA.

Q. Will you mail to us upon your return the contract for 1909?

A. Yes, sir; I will.

Hon. Theo. Brace, Commissioner:

May that go into the records?

Hon. Selden P. Spencer, Counsel for Respondent:

Yes, sir.

Hon. Theo. Brace, Commissioner:

Let it be considered offered in evidence now, that is the contract for 1909.

Hon. Charles G. Revell, Counsel for Informant:

We offer in evidence on behalf of the informant the Commission Agency Contract of the International Harvester Company of America for the season of 1909 and ask that the same be marked Exhibit No.—— by the stenographer and that the same be attached to the record.

Said agency contract for the season of 1909 marked Exhibit No.—— here appears attached to said witness testimony and appears in words and figures as follows, to-wit:

# INSERT 1909 CONTRACT HERE.

## RE-CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. I believe you stated that 40 per cent of the agents in your territory that handle the binders of the International Harvester Company of America, also handle the binders of the Independent Companies, such as the Acme and the Johnston? A. Yes, sir; that is about right.

Q. What was the per cent of your agents that also handle the mowers of the Independent Company? A. Sixty-five to seventy per cent, much larger.

Q. You were asked if you could recollect any of your agents that handle your goods and handle the Independent Companies? A. I have been able to recall only a few, if I was at home and could look over the towns and the agents names and confer with the traveling men, they have knowledge of this business and these facts and they report to me and sometimes they do not.

Q. Will you please state who they are and they can be put into the record, such a list as you can furnish? A. I could furnish a list.

Q. What ones do you think of now? A. McKnight, Marshall Hardware Company, Sedalia, and Gustain & Son, Pleasant Hill, Mo. A. R. Wilder, Clinton, Mo. J. N. Blakemore, Clinton, Mo. Armstrong & Elmore, Lathrop, Mo. P. H. Rea Implement Co., Marshall, Mo. Fox & Co., Pleasant Hill, that is all I can call off hand.

Q. Will you in the next week send to the stenographer such a list as you may verify to the best of your impression? A. Yes, sir.

Q. What per cent of cultivators that are used in your district are sold through your agency? A. A very small per cent, I would not think 5 per cent.

Q. You stated what per cent of gasoline engines? A. Ten to fifteen per cent.

Q. What per cent of peg harrows? A. Well either disc and peg harrows, there are quite a number of those made, I should say fifteen per cent.

Q. How many of disc? A. Same proportion.

Q. How about hay loaders? A. I do not think I get more than ten per cent of that trade.

Q. How about hay stackers? A. About ten per cent.

Q. Wagons? A. Fifteen per cent.

Q. How about feed grinders? A. Probably ten to fifteen per cent.

Q. Are you able to tell Mr. Yancey as to the change, if any, in prices of these articles between 1902 and 1908? A. I am not competent to do that from memory. We depend on our records at home, that is 158 miles away and the contracts principally are made by the block men and sent in and the clerks compare them.

Q. Have you the data at home you can make up a change in prices from 1902 to 1906? A. Yes, sir.

Q. When you send the others, will you send that information? A. Yes, sir; from 1902 to 1908.

Q. And a copy to the Attorney-General? A. Yes, sir; I cannot give that, we do not prohibit the agent from handling any other line.

Q. You can gather the information? A. So far as I personally know, they might be handling another line, I do not prohibit it, they might probably be handling it.

Q. You stated this morning that the freight on binders in car load lots was about \$4.50 to your territory? A. That specific case was Jefferson City.

Q. And 25 per cent additional if they came in less than car load lots? A. Yes, sir; the probable difference between a single machine and car load lots in Kansas City it is a little more than here.

Q. And that freight is paid by the local agent? A. Yes, sir.

Q. Has that always been the case? A. Yes, sir; ever since my connection with the harvester business, we always made our prices f. o. b. factory and the agent pays the freight.

(Witness excused).

A. I. DOURGHERTY, of lawful age being duly sworn upon his oath testifies as follows on behalf of the informant:

#### DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. State your name and residence? A. A. I. Dourgherty, Springfield, Missouri.

Q. In what manner are you connected with the International Harvester Company of America? A. General agent.

Q. How long have you acted in that capacity? A. Well since 1902.

Q. What part of 1902? A. Well the latter part, I think October.

Q. With what company, if any, were you connected prior to that time? A. McCormick.

Q. How long had you served them? A. Since 1891.

Q. As general agent? A. No, sir; not all the time.

Q. How long had you served them as general agent? A. From '91 to '97 I was traveler, what is known as a block man and from

1897 up to, from 1897 I was general agent up to the time the America Company was formed for the McCormick.

Q. What were your duties as block man? A. Establish agencies for machines.

Q. Did you have anything to do with canvassing and soliciting? A. I did in early days before I was block man, I was a canvasser.

Q. The block man does no canvassing or soliciting? A. The block man does not do very much, he does some.

Q. Did he at that time? A. Yes, sir; some.

Q. You had a canvasser and solicitor connected with you in that territory? A. Yes, sir.

Q. How many counties ordinarily constituted a block? A. Well that would depend on how many dealers were located in the block.

Q. About how many dealers did you have a block man? A. That would be hard to tell, I don't know how many I should judge about 80 from 50 to 80, some have as large as 100.

Q. Did you have anything to do as such block man in fixing the price to the dealers? A. No, sir.

Q. Did you have anything to do with fixing the price to the purchasers? A. No, sir.

Q. Who fixed them prices? A. The dealer.

Q. Who fixed the price to the dealer? A. Well the general office, the company fixed the price to the dealer.

Q. Was that price strictly adhered to, was that never reduced? A. You mean the wholesale price to the dealer?

Q. Yes, sir. A. Very few instances it was ever reduced that I remember.

Q. Then competition at that time was not sufficiently fierce to cause you to cut prices to the dealer? A. Well it was pretty fierce.

Q. In what way was it fierce? A. From a competitive way, the same as any other business would be.

Q. Well what were some of the evils or bad features of the competition at that time? A. Well there were various evils, there was trading for old machines by different dealers, that was done where I worked almost exclusively by the dealer, I don't know, I cannot recall of any instances where the company or representatives of the companies encouraged it.

Q. Now when the agent took in this old machine, did your company then take the machine from the agent? A. Not in a single instance.

Q. In no instance? A. No, sir.

Q. From the fact that the agent was taking in old machines in no manner affected the company, that so far as the company was concerned, it was not an incident? A. No, sir.

Q. Describe some of the evils that was an evil from the standpoint of the company? A. Well the greatest evil was between this fierce competition of the dealers, it was hard to get responsible dealers to take hold of the reaper business, knowing it was in such bad condition, some of the best dealers in the state of Missouri declined to

handle harvesters, we can recall a number of dealers that have never handled them since because of that same thing.

Q. Who are some of these? A. Well one man at Springfield, Missouri, J. M. Dolan. Springfield, he said that he would not have a dollar in the business. John McGregor offered to quit it on that account and I cannot recall any others, there are hundreds of them in the state that did it.

Q. Do you mean to state you experienced any great difficulty in getting agents to handle your machines prior to 1902? A. Yes, sir; most assuredly.

Q. That was due to the fact that other companies were trying to get agents? A. Due to the demoralization of the business.

Q. What evils were there besides taking in old machines? A. Cutting prices and selling at cost.

Q. That is the price was cut and sold by the company at the price they were sold to the dealers? A. Yes, sir.

Q. What other evil, if any? A. Well I cannot recall any other evils.

Q. Now in none of these instances where the dealer cut the price and sold to the farmer, did your company make a reduction in the list price to that dealer? A. It was done in a few instances, yes, sir.

Q. That no longer exists, does it? A. No, sir.

Q. That has not existed since the season of 1902, has it? A. I cannot recall any instances where it has.

Q. That fierce competition was principally between the McCormick, Deering, Plano, Champion, Milwaukee and Osborne, was it not? A. I think that all represented in the harvester business was in it, I do not think any stayed out.

Q. That competition was in these six companies? A. I think not, I think other ones that manufactured the harvesters.

Q. What other companies? A. You mean from the time I first commenced?

Q. Say in 1901 and 1902? A. Well the Walter A. Wood people, the Acme and the Johnston.

Q. Was the Acme doing business in Missouri? A. I do not believe they were, I think that they were about to, I would not be positive, I think they were.

Q. Were they in 1900? A. I could not say positively whether they were or not.

Q. Was the Johnston Company? A. I think they were here in 1901.

Q. During what years was this fierce warfare or competition in existence? A. For several years, I think it was pretty well started in 1891 in the companies.

Q. And continued from that time down until 1902? A. Yes, sir.

Q. Competition all the time growing fiercer? A. Yes, sir; some of the companies that had been doing business were out of business.

Q. Have any companies gone out of business since 1902 in Missouri? A. I think not.

Q. Was the Aultman-Miller-Buckeye Company doing business in Missouri then? A. In 1902 or 1901.

Q. Any time prior to 1901? A. If they were I do not remember it, they might have been in the territory I was in, I am speaking of the territory I was familiar with, I don't know what was handled in the district of Kansas City.

Q. Was that the company that manufactured the Old Buckeye machine? A. Yes, sir.

Q. You do not think that prior to 1902 they were selling machines in Missouri? A. Yes, sir; I think so prior to 1902.

Q. Up until what year? A. I could not say.

Q. Did they again do business in this state in 1903? A. I think not.

Q. Or 1904? A. I was not in the state in 1903, 1902, 1903 and the latter part of 1904.

Q. How about 1905, did the Aultman-Miller-Buckeye people do business in Missouri? A. No, sir; I think not.

Q. The Osborne Company did business in 1902, 1903 and 1904 in Missouri? A. I don't know what they did in 1903, 1904, but I think not in 1905, I think in 1905 the America Company sold the Osborne line during the season of 1905.

Q. Close to the end of the season of 1905 during the season the mowers and harvesters were principally sold, they were not doing business with the America Company then? A. I think not, I am not sure whether that was 1904 or 1905.

Q. They were ostensibly doing business as an independent competitor? A. Yes, sir.

Q. Do you know how many competitors the International Harvester Company of America now has on binders in Missouri? A. Well the Acme and the Johnston and the Wood binders are the only ones I know of.

Q. What per cent of the binder business is done in your territory by the International Harvester Company of America? A. I would judge 85 per cent.

Q. How many counties is your territory composed of? A. Well I could not tell you how many counties in Missouri, I believe sixteen, it is more than that, I could not tell without looking at the list.

Q. You have a pretty good sized territory? A. Yes, sir; I have a part of Arkansas.

Q. Are the prices of these machines sold the same in Missouri as Arkansas? A. There is a slight difference for cash in Arkansas, we do not take any farmers paper at all.

Q. You do not? A. No, sir.

Q. Is your cash price down there the same as the cash price in Missouri? A. Yes, sir.

Q. What is your cash price now? A. In Missouri?

Q. Yes, sir? A. Well it is \$38.50 less seven per cent, on a binder it is \$107.50 less seven per cent for cash, that means two payments means one-half this year and one-half next, with a discount of seven per cent for all cash.



Q. What per cent in your territory of the machines sold are paid for in cash? A. Of the binders?

Q. Yes? Well take binders and mowers together or separate, which ever way you prefer? A. Well I would judge about between 50 and 60 per cent.

Q. On both binders and mowers? A. Yes, sir.

Q. Now do you know at what price the Acme and the Johnston binders sells for in Missouri? A. I do not.

Q. Do you have any information as to what amount your machines sells for to the purchasers? A. I have not in a single instance.

Q. How many competitors have you in Missouri in corn binders? A. I think there are two.

Q. What per cent of business on corn binders do you do in your territory? A. I think I sold six corn binders in my territory.

Q. Well what per cent of the machines sold in that territory is that? A. I believe it is one hundred per cent.

Q. Did the prices of corn binders increase in 1908? A. Yes, sir; just the same as the wheat binder, as the six-foot wheat binder.

Q. Do you have much of a sale on clover bunchers? A. None.

Q. On the cream separators? A. Not very much, have some trade.

Q. What per cent of the cream separator business did you say you do in your territory? A. Not even ten per cent, if that.

Q. How about the corn planter, do you sell many of those? A. Well none, do not handle them.

Q. Drills? A. No drills.

Q. Gasoline engine? A. I believe about fifteen, between fifteen and twenty per cent of gasoline engines.

Q. How does the price of gasoline engines at this time compare with the price of gasoline engines—it in 1907? A. They are higher, there is a readjustment, the smaller engines were lower from a 7 to an 8 horse power, there was a ten per cent advance.

Q. What would you say on the average, on your average makes? A. Of the engines?

Q. Yes, sir? A. I would judge close to ten per cent.

Q. On the average? A. Yes, sir.

Q. Now what has been the increase on cream separators? A. In price?

Q. Yes, sir? A. There has not been any.

Q. When was this increase made in the price of gasoline engines?

A. I believe it was in 1908.

Q. Has there been but one increase? A. That is all I remember of.

Q. What kind of business do you do on knife and tool grinders?

A. We do a fair business.

Q. What per cent of the business do you do in your section? A. That is pretty hard to tell, I don't know how many tool grinders there are sold, there might be more than we know anything about through the wholesale houses, I judge twenty to twenty-five per cent of the tool grinder business, that is a rough estimate.

Q. How about harrows? A. About fifteen per cent, that is on peg tooth harrows.

Q. Take on the three, peg tooth, disc and spring harrows? A. I would judge about fifteen per cent of the business.

Q. How many competitors have you in Missouri on harrows? A. I declare I could not tell, it would be a rough guess, I expect fifteen or thirty.

Q. You handle hay presses, do you? A. Yes, sir.

Q. What per cent of the business do you do on them? A. I expect 25 per cent.

Q. How many competitors have you on hay presses? A. I could not say.

Q. Have you no more than five or six in Missouri? A. I think we have four or five at the Kansas City line.

Q. How many do you know of in Missouri? A. Ten to twelve, any how.

Q. Can you name these? A. I could name some of them; the Eagle Manufacturing Company, the Lightning Hay Press Company and the Davidson-Bradley; that is all I can call to mind now.

Q. Now, what part of the business that was done in your territory in 1904; I mean your aggregate business was represented by your binder and mower business? A. You mean in 1908?

Q. No, sir; I mean in 1904. A. Oh, 1904; well, I came back in the late part of 1904, in the fall of 1904; I was not familiar with the 1904 business; I was in the south.

Q. You were not familiar with it from 1902, you were not here then? A. No, sir; 1902, 1903 and 1904.

Q. What part of your business was represented by the mower and binder business in 1908? A. Well, I would judge not more than 40 per cent.

Q. You know as a harvester man that in 1903 the business done in Missouri by the International Harvester Company of America was a larger binder business in proportion to other business than it is now? A. That is what I was informed; I was not here.

Q. You know as your experience prior to 1902, that was true, do you not? A. Yes, sir.

Q. Do you know of the amount of business that was done in Missouri in 1902, say in the year 1901, by the McCormick and the Deering and the Plano, the Champion and the Milwaukee Company? A. I do not.

Q. The Milwaukee Company had larger sales in Missouri than any other company on the binders and mowers? A. I could only speak of the part of the country I was familiar with.

Q. Well, your part? A. I think not.

Q. What ones? A. The Deering and the McCormick in my part.

Q. Well, what were the larger companies, name them? A. Well, it is only a rough guess; I believe it would be the Deering and the McCormick and the Milwaukee were the three.

Q. What was next? A. I believe the Champion and the Plano and the Osborne, that would be my guess.

Q. These are the machines that you now sell for the International Harvester Company of America? A. Yes, sir.

Q. How many local agents have you under you in your Missouri territory? A. I do not think to exceed 250.

Q. Do you know how many of these agents handle only one of your machines? A. Yes, sir; I think so.

Q. Your purpose is to have separate agents in the same town for the different machines? A. Yes, sir.

Q. Do you knowingly contract with an agent who is representing the Johnston Company? A. I don't know of any with the Johnston Company; I have with Acme; I don't know with the Johnston Company.

Q. In fact, there are a good many of the agents that represent both the Acme and the machines manufactured and handled by the International Harvester Company of America, is it not? A. I think so; I don't know how about the two in my part of Missouri.

Q. Who handles the Acme? A. The binder, I am speaking about?

Q. How about the Woods? A. I do not know of any; I do not believe there is a Wood binder sold in that country.

Q. Do you know of any Wood machines being sold in Missouri? A. I know of some mowers.

Q. No binders? A. No, sir.

Q. Have you known of any being sold in Missouri since 1902? A. I could not say when.

Q. Do you instruct your block men not to contract with agents who represent the Johnston? A. No, sir.

Q. Do you know, as a matter of fact, that your block men refuse to enter into a contract with agents, because they are handling the Johnston? A. I do not.

Q. You never had an instance of that character reported to you? A. No, sir; I have not.

Q. Are all the agency contracts that are rescinded, rescinded under your instructions? A. Well, mostly.

Q. Then in all instances were contracts have been taken away from the local agent for first one reason and another, it has been done with your knowledge and consent as agent of the company? A. Yes, sir.

Q. Is Barry county in your territory? A. Yes, sir.

Q. Do you know Mr. Lucky, and is he your agent? A. Yes, sir; he was.

Q. What years? A. 1906, 1907 and 1908, I think.

Q. Do you know why he quit acting as your agent? A. Yes, sir.

Q. Why? A. He sold out to Northcut Bros.

Q. Don't you know in 1907 or 1908 of Mr. Lucky ordering a number of spring tooth harrows that he had previously bargained to sell, and that these shipments were delayed, and that when Mr. Lucky asked for an explanation, do you know what explanation was given him? A. I cannot recall to mind anything of the transaction.

Q. Do you require an agent who handles one of your lines, say handles your binders and mowers, to also handle all other lines that you make, and which is in line with his business? A. No, sir.

Q. For instance, you let a man sell your binder and mower without requiring him to act as your agent on the harrows, and such things, although he is handling harrows? A. We do not require it at all; it is optional with him.

Q. It is the general practice for him to do it, is it not? A. I think not; no, sir.

Q. Do you request them to do it? A. No, sir.

Q. These things are not suggested at the time the contract is entered into before or after? A. We do not permit them to be suggested in that management.

Q. Do you know about the number of machines that are sold, that is, the number of McCormick machines that are sold in your territory as compared with the number of McCormick machines sold prior to 1902; do you know whether the sales are greater or less? A. I know that on binders it is a great deal less.

Q. It is a great deal less? A. Oh, yes, sir.

Q. How about the machines of the other makes—that is, the Plano and Champion and machines sold by you? A. Nothing, to compare with the machines sold in former years.

Q. You mean there are a less number sold? A. Oh, yes.

Q. How about the number of machines sold by the Johnston and Acme, and as compared with those sold prior to this time? A. I think more sold.

Q. You think they sell more? A. Yes, sir; they do.

Q. On what do you base that? A. Well, I think they are working harder; I think they are scattering over a greater portion of country than they formerly did.

Q. In your particular territory? A. Yes, sir; and on south in Kansas.

Q. The machines you now sell were all represented well in your territory? A. Yes, sir.

Q. These other companies have increased their sales by becoming more active since 1902? A. Yes, sir.

Q. Has your company been less active since 1902? A. No, sir; I think not.

Q. How do you account for the increase of the independent company sales and a decrease on yours, when you have been as active? A. I think prices have something to do with it; I would lay the greatest stress right there.

Q. Well, now, is the price of the Johnston machine less than the price of the Plano and McCormick? A. Yes, sir: I think so down there, and especially on mowers.

Q. Was that not true in 1902? A. Yes, sir; I think so.

Q. What difference is there now that did not exist prior to 1902 in the price? A. I cannot say as to that.

Q. I forgot whether you stated that the binder business of

these six companies was 85 per cent. A. Did you have reference to the business done now or then?

Q. I meant now; what per cent. of the binder business do these six companies or did these six companies do prior to 1902? A. I expect about that amount; perhaps they did more; expect they did; more than 85 per cent. prior to 1902.

Q. What per cent. would you say? A. I could not say; it would be a matter of guess work; I could not tell what the other companies did; I only know what I did myself.

Q. You think it was greater than 85 per cent.? A. Yes, sir.

Q. And the mower business? A. I think it was about the same.

#### CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. Mr. Dourgherty, do you remember how many counties you have in your territory? A. I do not.

Q. Would it cause you any inconvenience, if you knew you had 23? A. No, sir; I think not.

Q. That is probably about the number as you think it over? A. I expect so; I have not paid much attention.

Q. It lays in the territory around Springfield, Missouri? A. Yes, sir.

Q. You sell what binders is sold in your territory, you sell how much? A. Eighty-five per cent.

Q. Of the mowers sold in your territory, you sell how much? A. About 65 per cent.

Q. Of the rakes sold in your territory you sell how much? A. That is hard to tell; there are so many houses selling rakes; about the same number, about 65 per cent.

Q. Now, these three articles are the three articles of which you sell the largest per cent. in your territory, are they not? A. Yes, sir.

Q. Has that per cent. been substantially the same during 1902? A. Well, from 1905 on up, is all I can give any account of.

Q. In the prices of any of these articles, has there been any increase in your territory since 1902? A. I cannot recall.

Q. Until 1908? A. I cannot recall them.

Q. What was the average increase in 1908? A. The average increase in prices I would judge on these lines—you mean on these lines?

Q. Yes, sir; on these lines. A. Well, that would be hard.

Q. Approximately what per cent.? A. I would probably say five to six per cent.

Q. That is, from 1902 until 1908, these articles of which you sold the largest per cent. that are sold in your district, there has been no increase of prices except in 1908 when the average increase would be something like five per cent., is that right? A. I believe that would be right; that is only a rough guess.

Q. Now, take the articles, such as used by the farmers, such as

cultivators; what per cent. do you sell of those? A. Five and fourteen-foot cultivators.

Q. What per cent. do you sell in your district? A. Probably ten to fifteen per cent.

Q. The gasoline engines that are sold in your district, what per cent. do you sell? A. I would judge fifteen per cent.

Q. The harrows, peg and disc, sold in your district? A. About the same.

Q. Hay loaders? A. Well, we do not sell over ten per cent. of hay loaders.

Q. Of hay stackers? A. Not over ten per cent.

Q. Of wagons? A. Probably fifteen and maybe twenty per cent.; I would judge about fifteen per cent.

Q. Of feed grinders? A. Ten per cent.

Q. Taking these articles you sell all the way from five to 15 per cent., as I recollect your testimony just now, let's consider a minute the increase of prices in regard to these.

Q. Feed Grinders have increased in prices from 1902 to 1908, how much? A. I would judge 10 to 12 per cent.

Q. Wagons have increased in prices from 1902 to 1908, how much? A. 15 to 16 per cent.

Q. Hay stackers have increased in prices in your territory during that time how much per cent? A. 15 per cent.

Q. Hay Loaders have increased in your territory how much? A. 15 to 16 per cent. about \$6.00 on a Hay Loader.

Q. How much does a Hay Loader cost? A. Cost \$55.00 for a Swath and Wind Roll.

Q. Harrows have increased what per cent? A. I would judge five to six per cent.

Q. How about Peg Tooth Harrows? A. That is what I am speaking about.

Q. How about Disc Harrows? A. There was a readjustment on the Disc, I would judge that would be six to eight per cent.

Q. Gasoline engines have increased in price? A. I would judge ten per cent.

Q. That is, these articles of the sale of which went from five to fifteen per cent of the total sales have increased in price all the way from 8 to 20 per cent? A. Yes, sir.

Q. Now Mr. Dourgherty, do you sell plows? A. No, sir.

Q. Do you know what has been the condition of their prices from 1902 to 1908? A. I do not.

Q. Have they increased or decreased in price? A. I could not say, it was rumored there was an increase for the last six to eight years.

Q. Do you know how much? A. Well, I think—

Hon. Theo. Brace, Commissioner: He does not seem to have any personal knowledge.

A. 15 to 20 per cent.

Q. Do you come across the sale of plows? A. Yes, sir; the same class of men that handle our line.



Q. So when you go into a store with your line you see the plows?  
A. Yes, sir.

Q. Are you generally familiar with the prices of plows in your territory? A. I cannot say that I am excepting the rumors of dealers, that is the only way I get the prices of plows. That was 15 to 20 per cent.

Hon. Theo. Brace, Special Commissioner: That is objectionable.

Q. Corn Planters, do you handle them? A. No, sir.

Q. Do you sell them? A. No, sir.

Q. How about the prices of Corn Planters? A. They are about the same as plows.

Q. Do you handle buggies? A. No, sir.

Q. Do you know anything about the price of the buggies? A. Nothing except what I read in the farm journals and what is reported.

Q. Mr. Dourgherty, what per cent. of the business do you do in dollars and cents in your territory in the Binder business that you sell? A. It is a very small per cent.

Q. What per cent of your total business? A. The Binder business alone would not be over 18 per cent. in southwest Missouri.

Q. What would the Mower business be? A. Well the Mower business would be probably 30 per cent of the total business.

Q. Of the total business? A. Yes, sir; of the total business.

Q. These articles that you have mentioned, Binders and Mowers and Rakes and Harrows and Gasoline Engines and Hay Loaders and Hay Stackers and Feed Grinders are made by whom? A. The ones we sell?

Q. Yes? A. They are made by the America Company.

Q. Do you sell anything, you mean the America Company manufactures anything? A. As far as I know they do.

Q. Do you buy any articles, the firm uses, or do you deal in the sale of any articles that are not manufactured by them? A. Yes, sir; some.

Q. Well what? A. I buy the Meadows Meal Mill, a grist Mill in ear load lots.

Q. You deal in Meal Mills, manufactured by whom? A. Meadows Mill Company, ————— North Carolina.

Q. Do you sell anything else? A. We sell a thresher that is manufactured by the Heebner people of Pennsylvania, I believe, Lancaster, Pa., it is a pea and wheat thresher combined.

Q. Do you sell any threshers manufactured by the Bell City Thresher Company? A. Only two or three.

Q. Do you sell anything else, sell any Dynamos? A. Yes, sir.

Q. Do you sell any pumps? A. Yes, sir.

Q. Who makes these? A. We buy of the Gould people, they are back in New York, Meyers Bros., of Ohio, we buy some Denning Pumps, they are in Ohio.

Q. Do you deal in Electric goods? A. A little.

Q. Whom do you buy them from? A. Different houses, I do not now call the house to mind, I think the Westico people, St. Louis.

Q. Do you deal in hose or belting? A. Yes, sir; we are buying

some from the houses in Kansas City and some from the Rumsey people, St. Louis and some from a firm in Springfield.

Q. Any saws? A. Yes, sir; the Appleton Manufacturing Co. of Batavia, Ills.

Hon. Theo. Brace, Commissioner: I do not see the bearing of this testimony on this case.

Q. Is the Milwaukee Hay Tool Company a competitor of yours in Binders? A. No, sir.

Q. What is a cash sale? A. That means cash at October first, this year, if the cash is paid the dealer October first it means a cash price.

Q. When you speak of your cash sales do you mean the cash during the season, suppose you sell your goods in July or August and it is paid in October and September, is that a cash sale? A. Yes, sir.

#### RE-DIRECT EXAMINATION.

By Charles G. Revell:

Q. The articles that you mentioned as buying from other companies, none of that line is manufactured by the International Harvester Company of New Jersey or the International Harvester Company of America? A. No, sir.

Q. You are on a salary all the time for the America Company? A. Yes, sir.

Q. Now how do you get this average increase on the prices of wagons these different machines as ten to fifteen per cent? A. I get it from memory, I would like to make a statement about that, that can be gotten correctly from the records.

Q. When did you go into that to get these averages, when did you acquire that information? A. Well, I got that information here when Mr. Yancey was on the stand, it came to my mind there was an advance in these goods.

Q. Do you know how many wagons, or that is, do you know the price on the different wagons that are sold by this company in this state? A. I know the prices sold in my territory.

Q. How many different kinds of wagons do they sell? A. Different makes or sizes?

Q. Different sizes.

Q. Be quite a different lot.

Q. Have you gone over all those you sold? A. Yes, sir.

Q. And afterwards made an estimate and you say there is an increase in the prices since 1905, about 15 to 18 per cent? A. Well since we have had the wagons is what I am figuring on.

Q. How long have you had the wagons? A. I think since the fall of 1905.

Q. You say there has been an average increase on the prices of wagons from 15 to 18 per cent? A. I think nearly that.

Q. What kind is the principal wagon sold in your territory that you sell? A. It is a Weber, three inch wagon.

Q. Now at what price did that machine sell prior to 1905 to the

dealer? A. Well, sir; I could not tell you unless I look at the records at that time, but prior to 1905, I expect the 3 inch wagon would sell to the dealer, that is in single lot or car load lot?

Q. I mean in whatever way you sell them. A. In various ways we sell in less than car load lots.

Q. A single wagon? A. Yes, sir; I judge \$58,00, they could be bought for that.

Q. Do you know that? A. No, sir; I do not.

Q. You don't know what the price of that machine was? A. I will state the records will show.

Q. You made a statement, you don't know what the price of that machine was prior to 1905? A. No, sir; I do not.

Q. What was the price in 1906? A. I could not state, I could not give you the information, I know it was considerable under what it is now.

Q. How about 1907? A. I would have to recall the same.

Q. On what do you base that testimony of yours, about 15 to 18 per cent.? A. On my best judgment.

Q. You don't know the price any one year? A. Unfortunately I have not got my other books with me Mr. Revelle, I have only got my recent prices on the recent advance, not since 1905.

Q. On these other machines you mentioned as being an increase on, is that based on the same information you stated about wagons? A. Yes, sir; based from memory.

Q. Have you since you have been here today arrived at these estimates of averages? A. I have arrived at some of them since I have been here in this chair.

Q. In what manner did you arrive at these few, you don't know the price of any of these years? A. I would have to say I sold 163 binders in 1908, for so much money.

Q. I am talking about the increase in prices? A. I said it is an estimate based solely on imagination and from memory, I can furnish the figures and want to do it.

Q. Have you arrived at any of these estimates since you have been here today? A. I have known it all the time.

Q. Have you arrived at the estimate you made since you have been here this morning, the per cent.? A. I could not say that I have, when Mr. Yancey was giving his testimony I went over these in my mind and arrived at this then.

Q. Now on what articles and implements and machines has there been a material decrease in prices, say since 1905? A. Decrease.

Q. Yes? A. I could not name one.

Q. Could not name one? A. No, sir.

Q. What implements or machines can you mention where the increase has not amounted to as much as five per cent? A. Well as I stated, I do not think there has been any increase in Cream Separators. I do not know what the other people do, I do not think there has been any in ours.

Q. In what other articles has there not been any increase, as much

five per cent? A. I do not think on Manure Spreaders and Cream separators I have just mentioned.

Q. Well what else? A. That is all I can call to mind.

Q. Now then, has there been as much of an increase as much as five per cent. on all other lines? A. Yes, sir; I would judge that and more to, that would be my guess.

Q. Now the business you do on Cream Separators and Manure Spreaders is an extremely small proportion of the business done by you for the International Harvester Company of America, is it not? A. Well the Spreader business is a very nice business.

Q. As compared with all the other lines that you handle for the company, these two machines represent what? A. The Spreaders are about as much as the Binders.

Q. What proportion of the business you do in Missouri is represented by the sale of Manure Spreaders and Cream Separators? A. I expect manure spreaders and separators will be 20 per cent., maybe a little over 15 per cent.

Q. Now if there has been an increase of at least five per cent on some or all of your machines excepting Manure Spreaders and Cream separators, and there has been an increase of 15 to 18 per cent on these other machines you mentioned, how do you account for an increase on all your miscellaneous machines amounting to 5 per cent? A. I do not understand your question.

Q. You stated as I understand you, that there had been an increase of five per cent. on all your machines manufactured by you excepting Manure Spreaders? A. On all machines. I did not understand it that way.

Q. State on what other machines there has not been as much of an increase as five per cent? A. I just stated the only two I call to mind, the Separator and Manure Spreader.

Q. On the other machines then, implements and machines handled by you there has been at least an increase of five per cent., that is correct? A. I do not understand you, I claim, I stated I thought there was a five per cent. on Binders, Mowers, Hay Rakes, in 1908, if I understood it right, but I believed there was an average increase of the other lines of about 10 to 15 per cent.

Q. You can understand my question? A. I have not yet.

Q. I want to know if there is any implement, any article or machine or wagon, anything else handled by you except Cream Separators and Manure Spreaders on which there has not been at least an increase of five per cent.? A. Not except these two.

Q. These? A. I do not know any.

Q. You know of none? A. No, sir.

Q. Now there has been a great many where there has been an increase in price amounting to 15 and 20 per cent? A. Yes, sir; I think so, that is guess work, the records can show.

Q. Then the average increase on the prices of machines, articles and implements handled by you has been greater than five per cent. I beg your pardon, I deny that.

Hon. Theo. Brace, Commissioner; That is a matter of argument.

Q. Down in your country it is very hilly and broken? A. Yes, sir; very much so.

Q. They do not use very many Binders of any kind? A. No, sir; not so very many.

RE-CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. You never sold a Cream Separator before 1906? A. I do not believe we did.

Q. You never sold any Manure Spreader before 1905? A. No, sir.

Q. Will you furnish for the records a list of these prices from the data you have of the change in prices from 1902 to 1908? A. I will be very glad to.

Q. And send a copy to the Attorney-General? A. Yes, sir.

Q. And one to the stenographer? A. Yes, sir.

Q. And one to me? A. Yes, sir.

(Witness excused.)

WM. MATTHEWS of lawful age, being duly sworn upon his oath, testifies as follows:

DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. State your name and residence? A. Wm. Matthews, Chicago, Ill.

Q. In what manner are you connected with the International Harvester Company of America? A. District Manager of collection.

Q. With such position, what are your duties? A. I have charge of the collections of bills receivable in what we call the eastern district.

Q. Of what district is that composed? A. The territory east of the Mississippi River and about half of the state of Missouri.

Q. How long have you served in that connection? A. Since about January first, 1904.

Q. Were you connected with the McCormick or Deering or Plano or Champion or Osborne? A. Yes, sir.

Q. With what company? A. The McCormick Harvester Company.

Q. In what capacity were you serving them? A. From 1901 I was, up to the organization of the America Company, I was Assistant Manager of Collections for the McCormick Machine Company out of Chicago.

Q. And from the organization of this company up to 1904, with what company were you connected? A. With the International Harvester Company of America.

Q. Well then, since 1902, you have been with them? A. Yes, sir; but not in the capacity of District Manager.

Q. What was your capacity in 1902 to 1904? A. I was assistant Manager in the Collection Department in the McCormick Division.

Q. As such employee, you have had the collection of bills receivable of the International Harvester Company of America? A. I have supervision, I do not do that myself.

Q. I will ask you what connection if any, you have with the bills receivable of the McCormick Harvester Company? A. The collection of the bills receivable are handled and collected through the collection department of the International Harvester Company of America.

Q. How long has that been the case? A. Since the America Company organized.

Q. And is that condition true of all these other companies, these five other companies? A. It is true of the Plano, the Warder-Bushnell-Glessner, the Deering Harvester Company and that is all.

Q. How about the Osborne Company? A. Well we are handling receivables that were turned over to us from the Osborne Company, but as I understand any receivables that were taken prior to the America Company taking it over were held by the Osborne Company.

Q. When was that? A. I cannot say definitely, I have no information along that line, we took over the receivables in the fall of 1904 or spring of 1905, I don't know which.

Q. Well did you handle the bills receivable of the Osborne for 1904? A. I cannot say as to that, the bills receivable that came to us from the Osborne Company came to us in the fall of 1904 or 1905, I presume the 1904 are included, I don't know.

Q. Since that time you have had the exclusive control and management of the bills receivable? A. No, sir; not exclusive control, I am simply district manager.

Q. I mean the International Harvester Company of America, either through you or some other employes? A. Yes, sir.

Q. Do you know what the bills receivable of the McCormick Company amounted to that were turned over to the International Harvester Company of America? A. In the State of Missouri.

Q. No, sir; throughout the United States? A. Well approximately, I cannot remember the figures exactly it has been so long ago, I cannot remember, I would not attempt to say definitely.

Q. Approximately? A. Some where near twenty million dollars of the McCormick.

Q. How much of the Deering? A. I don't know.

Q. Do you know about the other companies? A. No, sir.

Q. How much of the twenty million, what of the million of the bills receivable coming from the McCormick Company have been collected? A. I cannot state that definitely.

Q. Can you give it approximately? A. Yes, sir; I should say, I can make an approximate estimate without the figures, I should say some where between seventeen million five hundred thousand and eighteen million.

Q. Do you know the amount of bills receivable that the Mc-



Cormick Company guaranteed to the International Harvester Company? A. No, sir.

Q. Can you give us approximately the total amount of the bills receivable that came to the International Harvester Company from the Milwaukee, Deering, Plano, Champion and McCormick, the total amount? A. No, sir; I cannot give that definitely as I answered before, I might say approximately, I should say some where in the neighborhood of thirty-five million.

Q. Now of the thirty-five million, how much approximately has been collected? A. Oh, somewhere near thirty million, I cannot say exactly.

Q. These bills receivable were turned over to the America Company by whom? A. Well, as I understand it they were turned over by the different old companies.

Q. Were they turned over by the different old companies or by the International Harvester Company of New Jersey? A. I don't know anything of the International Harvester Company of New Jersey at all, I never heard of them through the transaction.

Q. Did you or others, through the collection of the bills receivable of the old companies, have any connection with the old companies? A. No, sir; none except to account for the old companies for the money collected.

Q. You are not in their employ in any manner? A. Now, no, sir.

Q. And have not been since you have been collecting these bills receivable? A. No, sir.

Q. Have they separate agents or collection departments for the purpose of collecting these bills receivable? A. No, sir.

Q. Do you annually or how often do you make reports to these former companies of the amounts you collect and the condition of their bills receivable? A. We report collections daily.

Q. To what particular individuals do you make these reports? A. We send the reports of the McCormick Harvester Company to the office of the McCormick officers.

Q. Who is in charge of that office? A. John A. Chapman is treasurer of the company and in charge of that business, and is Vice-President.

Q. Who is President? A. Cyrus H. McCormick.

Q. He is also President of the respondent Company. A. Yes, sir; so I understand.

Q. In what business is that McCormick Company engaged in? A. As I understand it to liquidate all its old business prior to 1903.

Q. They are not in any manner manufacturing or selling any Binders or farm implements? A. No, sir.

Q. What character of an office do they maintain there at Chicago, how many employees have they in their employ? A. I cannot say as to that.

Q. They do nothing with the collections of these bills except to receive your reports? A. No, sir, except they do a little work on the loss and discount business we turn over to them.

Q. How do you turn over the bills receivable to the McCormick Harvester Company? A. We make a statement each day, I O. K. the statement and send it to the office of the McCormick Company, a copy of that statement goes to our auditor of our disbursement.

Q. Of the America Company? A. Yes, sir; the money has gone into his hand, the America Co., and the auditor draws a check probably once a week or every two or three days, and that check is sent down to him and some of the other members of our department for approval and I write my name on it approving it and send it back to the auditor of disbursements and then it goes to the treasurer's office for his signature and by that department it is sent over to the McCormick Harvester Company department, who gets it I don't know, I presume the treasurer of the McCormick Company.

Q. Who is that? A. J. F. Stone.

Q. And what manner is he connected with the America Harvester Company? A. None at all.

Q. Do you know as a matter of fact it is not turned over to the America Company? A. No, sir, not as a matter of fact.

Q. The same process is adopted of the bills receivable of the other companies? A. Yes, sir.

Q. As you mentioned of the McCormick Company? A. Yes, sir.

Q. Mr. Matthews were these bills receivable transferred, endorsed to the International Harvester Company of America? A. The notes themselves were not endorsed but I don't know whether any general assignment was made or not, something that never reached my knowledge.

Q. You don't know then that these notes were paid in by the various companies in part payment of stock that was issued to them by the New Jersey Company? A. Not as a matter of fact, I do not.

Q. Don't you know that from information you acquired from the officers of the concern? A. The officers have never mentioned it to me.

Q. You get no salary at all from any of these companies? A. No, sir; none whatever.

Q. Do you know how much stock was paid the McCormick Company for its property by the New Jersey Company? A. No, sir.

Q. Or do you know how much was paid any of these companies for their assets? A. No, sir; I have no knowledge along that line at all.

Q. Have you any knowledge of what the actual assets of the McCormick Company were in 1902? A. No, sir.

Q. Or of any knowledge of the actual assets of any of these companies bought by the International Harvester Company? A. No, sir, I have no connection except in the collection department of the McCormick Harvester Company.

Q. Do you know anything about the volume of business that is done by the International Harvester Company of America in your district? A. In my district, no, sir; I do not.

Q. You have no information as to the per cent of the Binder business they do? A. No, sir.

Q. Or no information as to the volume of business done by them in the entire United States? A. Except as their general annual reports shows the amount of business done.

Q. Does that report show the per cent of business that is done by this company, the per cent. of the total business done by this company in this country? A. I believe not.

Q. Well these statements, have you charge of these? A. Which statements?

Q. The statements showing the aggregate amount of business done, have you charge of those in your office in Chicago? A. No, sir; not in my office.

Q. Who has charge of these? A. I cannot say who has charge of these, I don't know.

Q. Did you have anything to do, that is, either your district or the other district have anything to do with the collections of bills receivable in countries other than United States, take in Canada? A. No, sir.

Q. That is handled from a different office? A. I don't know where the collection of foreign business is handled, I am not posted.

#### CROSS-EXAMINATION.

By Hon. Edgar A. Baneroft :

Q. The various companies whose receivables existing in 1902 and prior thereto, which the America Company has been collecting are the Plano's, the Deering and the Warder-Bushnell-Glessner Company? A. And the McCormick.

Q. And the proceeds of these, the collection of such receivables are turned over to these companies as collected are they? A. Yes, sir.

Q. What deduction is made by the America Company for collecting them? A. We deduct ten per cent. now.

Q. How long have you been deducting ten per cent. A. Since July 1st, 1907.

Q. Before that time what did you collect? A. Five and a half per cent.

Q. To the best of your knowledge and belief, is there any part of that money except the 5½ and 10 per cent returned to the International Harvester Company of New Jersey? A. If it does, it does not go through my hands, I know of no return of any part of it at all.

Q. The America Company had no collections of its own in 1903 because it had only began its business that season? A. Well, it had its collection there of sales for machines in 1903.

Q. And in the fall of 1903? A. Yes, sir; but only those.

Q. And in the next year, in the fall of 1904, it had only those of the preceding season? A. Yes, sir.

Q. Then the America Company organized a collection department of which you are connected in the fall of 1902, did it not? A. The collection department was organized as it now is, as of date January 1st, 1904.

Q. And before that time it was organized as the selling department was, in divisions, previous to the America Company? A. Yes, sir.

RE-DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. Do you know of suits being instituted by the International Harvester Company of America, instituted on the bills receivable in the name of the International Harvester Company? A. Yes, sir; I know of some.

Q. That is frequently done? A. No, sir; not frequently.

Q. Sometimes? A. Yes, sir; we have some suits in the name of the International Harvester Company, comparatively very few as compared with the total amount of debtors.

Q. Are these accounts or notes upon which the suits are brought are they endorsed to them? A. When we sue on a note for the old company we make them plaintiff.

Q. I mean in any instance you sue in the name of the International Harvester Company of America on the bills receivable that were the property of the old company prior to 1902? A. In a few instances.

Q. These instances they were endorsed over to the International Harvester Company of America by the old company? A. Yes, sir; if we bring suit in the name of the International Harvester Company of America.

(Witness excused.)

E. M. WOOD, of lawful age being duly sworn upon his oath, testifies as follows:

DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. What position have you with the International Harvester Company of America? A. I have charge of the records in connection with the sales department.

Q. What is the nature of these records Mr. Wood? A. They are the sales and expenses, and number of employees, general information for them, and to assist in the conducting of the business.

Q. These records disclose do they, the total sales of the company in the United States of Binders and Mowers that are handled? A. Yes, sir.

Q. Do you also cover statistics as to the sale of machines made by your competitors? A. We do not.

Q. You have no statistics of that character? A. No, sir; I have none.

Q. Have you any information of the International Harvester Company of America having its statistics prepared of others and being in possession of them? A. No, sir; I have not.

Q. Have you any way of ascertaining the business of the International Harvester Company as compared with the business of other companies? A. Absolutely none.

Q. Well Mr. Wood, have you any personal knowledge or information as to the per cent. of business done by the America Company on Harvesters and Binders in the United States? A. Yes, sir; that is a part of the records.

Q. Well now, what per cent. of the Harvester and Binder business in the United States would you say the International Harvester of America done? A. I believe I misunderstood the former question.

Q. I asked you if you had any information of any character that would enable you to state the per cent. of business done by the International Harvester Company of America on Binders and Mowers? A. No, sir.

Q. Do you know from whom Mr. McCormick and Mr. Jones and other officers of your company got their information as to the relative business of the different companies? A. I have no idea.

Q. Did they not get that from your department? A. No, sir.

Q. Now Mr. Wood, how many harvesters; first, how many Binders did you sell in the United States in 1908, approximately? A. That is pretty hard for me to answer without records.

Q. Well give us your best judgment on that, give it to us approximately? A. I do not carry these figures in my head, perhaps somewhere I can get you that information correctly.

Q. Well Mr. Wood you have charge of that work and these records, give us your best idea of the number of Binders sold in the United States in 1908 by your company? A. Perhaps 75,000.

Q. How many of these? A. Hon Seldon P. Spencer, counsel for Respondent:

This raises a question I have no idea whether Mr. Wood is right or not in his guess, I do not like to have a guess go into the record, I can furnish the exact number. You asked us for Missouri, we can give you that.

Q. How many Binders did you sell in Missouri in 1908? A. Grain Binders, 3,390.

Q. Now have you the number that you sold in 1907? A. Yes, sir.

Q. What number did you sell in 1907? A. 5,283.

Q. 1906? A. 3,157.

Q. 1905? A. 3,101.

Q. 1904? A. 3,761.

Q. 1903? A. 5,134.

Q. You made no sales in 1902? A. I have no record of it.

Q. Do you know the number of machines sold in Missouri in

1902 by the Deering, McCormick, Plano and Milwaukee Company?

A. No, sir.

Q. You have a record of the sales made this year, have you?

A. For 1909?

Q. Yes, sir? A. No, sir; I have not.

Q. You have none up to the present time? A. No, sir.

Q. Have you a record there of the number of Mowers?? A. Yes, sir.

Q. Give me these for 1903? A. Beginning with 1903?

Q. Yes, sir. A. 1903—10,208; 1904—9,208; 1905—7,857; 1906—6,665; 1907—10,331; 1908—8,836.

Q. Now in giving the number of Binders there that is simply the Grain Binder is it? A. Yes, sir.

Q. Have you the number of implements and machines sold in Missouri during these years excepting the Binders and Mowers? A. I have the goods sold by the America Company—

Q. That is anything except Binders and Mowers? A. Yes, sir.

Q. What else have you? A. I have Headers and Feed Grinders and Corn Grinders.

Q. Well have you all of those? A. Yes, sir; (Witness produces a paper).

Q. That is every machine that you manufactured and sold in Missouri? A. Yes, sir.

Hon. Charles G. Revelle, counsel for Informant:

We offer in evidence the sales made in the state of Missouri by the International Harvester Company of America as produced by E. M. Wood, the witness on the stand, said sales being for the years 1903, 1904, 1905, 1906, 1907 and 1908, and ask that said exhibit be marked as Exhibit No. — by the stenographer and that the same be copied into the record as a part of the witness' testimony.

Hon. Theo. Brace, Commissioner: Consider the paper read and offered in evidence.

Said exhibit No. — here appears in the record on behalf of the informant in words and figures as follows, to wit:



INTERNATIONAL HARVESTER COMPANY OF AMERICA, CHICAGO, ILLINOIS.

SALES IN STATE OF MISSOURI.

	1903.	1904.	1905.	1906.	1907.	1908.
Grain Binders.....	5184	8761	3101	3157	5293	3890
Hdrs. & Push Hrv.....	66	89	15	5	21	7
Corn Hrv. & Bdrs.....	126	222	147	677	196	149
Corn Husk. & Shred.....	31	32	16	94	23	10
Corn Shockers.....	18	12	3	24	18	4
Corn Pickers.....					8	1
Mowers.....	10208	9208	7867	6665	10331	8836
Reapers.....	56	19	12	27	34	28
Tedders.....		19	146	46	122	216
Rakes.....	6073	4806	4786	4893	6151	5418
Sweep Rakes.....		358	1577	599	561	877
Hay Stackers.....		87	330	113	53	107
Knife Grinders.....	1446	1373	1210	832	681	781
Manure Spreaders.....			50	528	549	680
Disc Harrows.....			414	685	1027	1177
S. T. Harrows.....			144	373	325	646
P. T. Sections.....			1378	2007	4347	4655
Cultivators.....			80	46	76	136
Hay Balers.....		1	10	35	138	152
Hay Loaders.....				50	101	108
S. D. Rakes.....				8	34	84
Gas Engines.....		5	343	481	450	479
Wagons and Gears.....			825	1015	1751	2551
Cream Separators.....				10	38	401
Corn Shellers.....				195	519	414
Horse Powers.....				4	192	
Feed Grinders.....				15	11	141
Threshers.....					4	6
Autos.....						45

Miscellaneous lines, quantities not reported.

Twine 4,596,335; 4,577,755 lbs. 1905—2,879,477 lbs. 1906—2,778,765 lbs. 1907—4,352,957 lbs. 1908—4,077,820 lbs.

Proceeds of entire business in Missouri less discounts and allowances.

1904—\$1,382,811.98.

1906—\$1,335,857.49.

1908—\$1,771,382.06.

1905—\$1,207,112.23.

1907—\$1,943,463.78.

Q. Are you familiar with the prices at which these different machines sold? A. I am not, they are a matter of record.

## CROSS-EXAMINATION.

By Hon. Selden P. Spence:

Q. May this statement, General Major, be considered in evidence?

Hon. E. W. Major, counsel for Informant: It is already filed as an exhibit.

Hon. Theo. Brace, Commissioner: I so understand that it is offered.

Q. In that report which you now file, what is the meaning of that statement, "miscellaneous lines, quantities not reported," did you see that Mr. Revelle? A. That is a large number of goods that are sold by the America Company other than those listed or offered such as Heebner Drills.

Q. You mean things not manufactured by the International Harvester Company of New Jersey? A. Yes, sir.

Q. It includes that long list of implements that the International Harvester Company of America sells that they buy from other places than the International Harvester Company of New Jersey? A. Yes, sir.

(Witness excused.)

At this point a recess was taken in the above hearing until 9 o'clock tomorrow morning, said adjournment being ordered by Hon. Theo. Brace, Commissioner.

JOHN B. CALDWELL, of lawful age, being duly sworn upon his oath, testifies as follows:

## DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. State your name? A. John B. Caldwell.

Q. Where do you live? A. St. Marys, Mo.

Q. You are located down in the southeastern part of Missouri? A. Yes, sir.

Q. Are you the local agent for any Harvester Machine Company?

A. I am local agent for the Deering.

Q. How long have you been agent for the Deering machine? A. This is my second year on the Deering.

Q. Prior to your connection with the Deering machine, what machine, if any, did you handle? A. I handled the Johnston.

Q. That is the one made by the Johnston Harvester Company?

A. Yes, sir.

Q. How long had you acted as agent for that company? A. Three years.

Q. That is three years preceding your services with the Deering Company? A. Yes, sir.

Q. Prior to that what machine did you handle? A. I handled the McCormick.

Q. For what period of time? A. Well I suppose for about two years.

Q. And immediately prior to that time what machine did you handle? A. I handled the Milwaukee.

Q. From what time to what time did you handle the Milwaukee? A. I handled the Milwaukee up until 1900 I think.

Q. Until 1900? A. Yes, sir.

Q. And from what year? A. From what year?

Q. Yes, sir? A. From 1898.

Q. What machine were you handling in 1902? A. The McCormick.

Q. Did you have any connection with the Osborne Machine Company? A. Yes, sir; I contracted for the Osborne.

Q. What year was that? A. I think it was 1903.

Q. What was your connection with the Osborne Company? A. Why I contracted with them and I cancelled my contract after I contracted with them.

Q. Did you in accordance with that contract, make any sales or act as their agent? A. No, sir; I did not sell any goods.

Q. How long after you entered into that contract did you cancel it? A. I think it was about three months as far as I can remember.

Q. What action, if any, on the part of the company did the cancellation of that contract terminate in? A. Well of course they brought suit against me on the contract.

Q. The Osborne people did in 1903? A. Yes, sir.

Q. Where was that suit instituted? A. St. Louis.

Q. Will you state whether or not that suit was prosecuted? A. No, sir; it was not prosecuted, the suit was dismissed.

Q. It was dismissed in what year? A. The same year, 1903.

Q. Now prior to your connection with the Johnston Company, were you permitted by the International Harvester Company of America to handle the machines or repairs of any company excepting the machines and repairs of the International Harvester Company of America? A. I only handled the repairs of the machines I contracted for.

Q. Prior to your connection with the Johnston Company, were you permitted by the International Harvester Company of America to handle the machines or repairs of any independent company? A. No, sir.

Q. You were not? A. No, sir; of course I suppose there would have been no objection, I had no occasion to.

Q. You mean prior to the time you acted as agent for the Johnston people? A. There was no independent machines being handled, none in the territory.

Q. Had neither the Johnston nor the Acme been represented there? A. No, sir.

Q. Mr. Caldwell you knew, did you not, prior to the time you took the agency from the Johnston Company you were not permitted

to order repairs from independent companies? A. Yes, sir; that was my understanding at the time.

Q. You were to act solely as the agent for the machine? A. Of the machine that I sold, the one I sold, I had a right to order repairs for the machine I sold. There was no occasion for any independent repairs to be handled.

Q. Did not the representatives of the International Harvester Company of America and your contract require you before you went with the Johnston Company to handle solely and exclusively, the repairs of the International Harvester Company of America? A. No, sir; it did not do that.

Q. You mean prior to the connection with the Johnston Company? A. No, sir; it was not in the contract.

Q. No exclusive clause in your contract? A. It gave me no exclusive clause in your contract prohibiting you from handling any other machine of the independent company? A. No, sir; no clause in my contract.

Q. Are you sure of that? A. Yes, sir.

Q. Why did you go with the Johnston people? A. Because the farmers in my neighborhood were rather against the combination of the trust of the machines and asked me to handle the independent Binder, and the Johnston Binder seemed to be the best Binder outside of the trust that I could sell. I took that Binder up and sold it for three years.

Q. Why did you quit the Johnston? A. I saw I was loosing my trade, the machine was not up to it, the farmers were not wanting it, I saw I was going to loose my trade.

Q. After you took the agency for the Johnston Company, state what was done by the International Harvester Company of America in addition to sending in canvassers and solicitors? A. They sent good canvassers against me.

Q. They sent better canvassers? A. I don't know as they were any better, they were as good as they had anywhere.

Q. Did you not state that they sent additional and better canvassers after you took the Johnston machine? A. No, sir; I do not think so.

Q. How was the competition, what efforts did the International Harvester Company of America make during the three years you handled the Johnston machine? A. They done what they could to sell their Binders, they had agents representing them in my territory.

Q. They made things pretty merry for you? A. I had to make more efforts than ever before to sell my machine.

Q. The third year you saw you were loosing your trade? A. Yes, sir.

Q. Then did the agent of the International Harvester Company approach you in regard to taking their machines? A. Not particularly, he met me on the street and asked me if I would not like to sell the International Harvester Companies goods. I told him I thought I would, that the Johnston was not giving the satisfaction,

that I was loosing out on it, I either had to do something or quit handling the Binder business, he did not come in my place of business.

Q. He approached you and asked you to accept the agency for their company? A. Yes, sir.

Q. That was after your trade for the independent machine had practically been taken from you? A. Yes, sir.

Q. Now when you accepted the agency for the Deering machine after having served as a Johnston agent, did not the company make more liberal terms than they had prior to your connection with the Johnston company? A. Only in regard to repairs, they gave me the privilege of ordering repairs for other machines where they had no agent in that place.

Q. Were those the only inducements they offered you? A. Yes, sir.

Q. Well Mr. Caldwell, it is a fact is it not, that your reason for changing from the Johnston to the Deering was simply that there was no independent machine on the market that enabled you to compete with the machines manufactured or sold by this International Harvester Company of America? A. Yes, sir; I say I could not hold my trade by selling the Johnston.

Q. Do you know of any independent machine you could handle and hold your trade? A. No, sir.

Q. It was a question of either quitting business or taking the agency for one of the machines of the International Harvester Company? A. Yes, sir.

Q. Since 1902, since a number of these companies were merged into one company, I will ask you to what extent the prices on Binders have increased? A. I suppose about \$15.00 on the Binder.

Q. What on the Mower? A. About \$7.00 I think.

Q. Do you also handle the Weber wagon? A. Yes, sir.

Q. How long have you handled that machine? A. This is my second year for that.

Q. Your second year? A. Yes, sir.

Q. Has the International Harvester Company of America at any time since they have been selling the Weber Wagons, increased the price of it? A. None since I have been handling it.

Q. Have the other wagon companies that sold wagons in your section of the state, increased their price? A. Yes, sir; I got quotations in April from the Jesring-Loudinghaus Wagon Company, they would advance the price of their wagons ten per cent. this last May, they are ten per cent. higher than last May.

Q. Do you know when the increase of \$15.00 on the Binder was made? A. I think it was made last year, a large portion of it was.

Q. Had there been any increase on the Binder before that made? A. Yes, sir; a small increase.

Q. Prior to 1908? A. Yes, sir.

Q. Had there been any increase on the Mower prior to 1908? A. Yes, sir.

Q. Do you know what that was? A. About two dollars I think.

Q. What was the increase made on the Binder in 1908? A. About ten per cent.

Q. What was the increase made on the Mowers in 1908? A. The same per cent.

Q. What Binders and Mowers are sold in your town and community? A. The Milwaukee and Deering.

Q. Is the Johnston also sold? A. Yes, sir.

Q. And the Acme? A. The Acme is not represented there.

Q. Are these Binders the Milwaukee and the Deering sold at the same price? A. The Milwaukee and the Deering, yes, sir; at the same price.

Q. You pay to the company, the same price that the Milwaukee man pays to the company? A. Yes, sir.

Q. You and the Milwaukee man sells the Binders at the same price to the farmers? A. Yes, sir.

Q. The prices that you pay to the company are set out in your contract, are they? A. Yes, sir.

Q. When the agents of the company contract with you or other times when you see them, do they give you to understand that you should have certain profits on these, their machines, indicating what these profits should be? A. Yes, sir; they state what the other agents sell and what their prices are, they are not binding, we have the privilege of selling them at what we want to.

Q. Do they not recommend that you adhere to the prices these other agents are selling them for? A. Yes, sir; they advise that.

Q. And that is as far as your knowledge goes? That advise is adopted and the agents pursue that line? A. I think so.

Q. Was that the case prior to 1902? A. Well prior to 1902, the prices had no uniformity at all, they sold them at all prices, the different companies had their own respective canvassers, these canvassers would go out and sell the Binders to the farmers and make their own prices.

Q. At that time there was considerable price cutting? A. Yes, sir; lots of it.

Q. And the different companies whose machines the International Harvester Company of America now handle had a great many more canvassers and solicitors than they have now? A. Yes, sir.

Q. In fact the competition prior to 1902, was considerably more active and aggressive than it is now, was it not? A. Yes sir.

Q. And that competition ceased immediately after 1902, the fierceness of that competition? A. No, sir; not all at once.

Q. Were the prices of the machines cut any in 1903 and 1904, that is, the machines of the International Harvester Company of America? A. No, sir; in the contract they were not.

Q. Were they actually cut in the sales? A. Yes, sir; they would sell them at all prices.

Q. After these companies went into the International Harvester



Company of America? A. No, sir; not afterwards, afterwards the prices has been regular.

Q. Immediately on the formation of the new company, the prices were made uniform? A. That is in the contract.

Q. And these prices were also practically uniform after they were made to the farmer? A. Well, no, sir; the farmers have got them at different prices since.

Q. When was it the prices got uniform to the farmer? A. There has been no uniform price yet to the farmer, they recommend it but it is not maintained.

Q. I understood you to say that you and the Milwaukee man sold at the same price and so far as your knowledge goes, is maintained? A. I mean that the prices recommended by us is uniform price, we do not get that price.

Q. Do you now cut the prices on your machinery? A. Not particularly cut, I sell it at whatever I feel like selling it.

Q. Do you reduce the price at what the company recommends it? A. Yes, sir.

Q. In what instances have you done that? A. The prices that were recommended that we ought to get is \$135.00, but I have sold them for \$125.00.

Q. When did you sell one for \$125.00, and to whom? A. To Mr. Fritz Winkleman.

Q. Did you reduce your price in order to make the sale to him and prevent him from buying from a competitor of yours? A. Yes, sir.

Q. Who was the competitor? A. Man by the name of Hershback in Chester.

Q. What machine does he handle? A. The Deering, the same as I do.

Q. Did he come to your town and buy it, did he come over there? A. I went to his farm.

Q. How far is that located from you? A. About six miles.

Q. How far was it located from the agent that was competing with you? A. About seven miles.

Q. What is the price that you sell the 6-foot Binder? A. \$130.00, \$5.00 less than a seven foot.

Q. I will ask you what per cent of the Binders you sell, do you sell at the price recommended by the company? A. I suppose about one-third.

Q. About one-third? A. Yes, sir.

Q. What is the per cent. of the reduction you make when you reduce the price, that is, on your average sales? A. How is that?

Q. I understood you sold one-third of your machines at the price recommended by the company, you say there is a difference between the ready cash sale and making a time sale? A. You see there is a difference between an outright cash sale or making a time sale, the companies give them three payments, I make them a reduction if they pay cash.

Q. Does not the company recommend a certain price on cash payment and a certain price on time payment? A. Yes, sir.

Q. Now when you sell for cash, I want to know what per cent. of the machines you make a cut or a reduction of on the prices not taking the ones you sell on time? A. Just on the cash?

Q. Yes? A. I make a reduction on a third, that is, where I have to compete with my surrounding agents, where they cut the price I generally meet it and sell before I let them sell.

Q. About two-thirds you sell at the recommended price? A. Yes, sir.

Q. But the machine you sell on time, how many of those do you sell on the price recommended by the company? A. I generally sell at the prices recommended by the company.

Q. All on time you generally sell at the prices recommended by the company? A. Yes, sir.

Q. Is the \$135.00 on the seven-foot Binder a time or cash price? A. It is a time price.

Q. It is a time price? A. Yes, sir.

Q. What is the cash price? A. \$5.00 less.

Q. \$5.00 less? A. Yes, sir.

Q. So the sale of Mr. Winklemans, was it time or cash? A. Cash.

Q. Does the company now send you agents or canvassers to aid you in making your sales? A. Yes, sir.

Q. What prices do you have to pay for a six-foot Milwaukee Binder when you were handling that machine, say in 1899? A. I forget now exactly, the six-foot was about \$85.00 that was about the cash price and \$90.00 was time price, 85 and 90.

Q. That continued to be the price up until 1902? A. Yes, sir; in that neighborhood.

Q. Now do you know what the price of the McCormick was, say about 1889 or 1890, to the dealer? A. They were all about the same price in those days, about.

Q. There was some difference in the prices of the Plano and the McCormick? A. I had no experience with the Plano, I never sold them, I know nothing about the Plano.

Q. Do you know anything about the Champion? A. No, sir; it was not sold during these days, it only has come recently.

Q. What machines were sold in your community prior to 1902? A. The Milwaukee, Deering and McCormick.

Q. The McCormick is not sold there now? A. No, sir.

#### CROSS-EXAMINATION.

Hon. Selden P. Spencer:

Q. Mr. Caldwell, your postoffice address is St. Marys? A. Yes, sir.

Q. Are you in the general hardware business there? A. Yes, sir.

Q. How much of a harvester business do you do in a year? A. The amount in money?

- Q. Yes, sir? A. As much as six to seven thousand dollars.
- Q. How many Binders do you sell in a year? A. Well it varies, some years as high as 28 and 30 and sometimes 10.
- Q. Your business varies from 20 to 30? A. Yes, sir.
- Q. And your poor years ten? A. Yes, sir; last year I sold six and this one.
- Q. And the year before? A. About twelve I think I sold.
- Q. Your experience in the matter is confined to the years you have been testifying, it is confined to your own experience? A. Yes, sir.
- Q. How many Mowers did you sell? A. I sold all the way from six to twenty a year.
- Q. I think you said you took up the Johnston machine after you had the McCormick? A. Yes, sir.
- Q. And you kept the Johnston machine for about how long? A. Three years.
- Q. How many of these Johnston machines did you sell, do you remember? A. In the three years thirty-eight Binders.
- Q. I understood you to say you found the machine didn't give good satisfaction? A. Yes, sir; that is right.
- Q. In other words, you found you did not have a machine which the people of that community wanted most? A. Yes, sir.
- Q. Was that the sole reason you gave up the Johnston and came to the Deering? A. Yes, sir.
- Q. That is the farmers down there preferred the Deering which you are handling, to the Johnston you had been handling? A. Yes, sir.
- Q. That is the reason you gave it up? A. Yes, sir.
- Q. And not from any pressure why you gave it up? A. No, sir.
- Q. You handle now the Deering in your town? A. Yes, sir.
- Q. Supposing a man out in the country has a McCormick or Champion, can he get repairs from you? A. Yes, sir.
- Q. That is, while you handle the Deering you have repairs of the Plano and Champion, Milwaukee and other machines, have you? A. Yes, sir.
- Q. You stated that in the sale you made to Mr. Winkleman that you cut the price to him? A. Yes, sir.
- Q. And that was to get the sale from the competing agents? A. Yes, sir.
- Q. Who was also selling the Deering? A. Yes, sir.
- Q. Is that competition between you and your neighbor selling the Deering active? A. Yes, sir; quite active.
- Q. And in the case of Mr. Winkleman the machine of \$135.00 that you might get, that you ordinarily get, you cut it \$10.00 in order to take it away from another Deering man? A. Yes, sir.
- Q. That competition is frequent and constant, is it? A. Yes, sir.
- Q. Mr. Caldwell, do you remember what the price of the Binder, what is the price of the Binder now? A. Six-foot, it is about \$110.00.

Q. And accordingly do you know what the price is? A. That is about what it is.

Q. Is it not \$107.50? That is for a six-foot, yes sir; that is correct.

Q. With seven per cent off for cash? A. Yes, sir, that is right.

Q. Was not the price in 1902 and 1903, \$100.00 with a five per cent. discount? A. That is right, yes, sir; that is about right.

Q. Now between 1902 and 1908, was there any increase in price at all until the increase of 1908? A. No, sir; not as I know of or as I remember.

Q. In 1908 the prices jumped from \$100.00 to \$107.50 with the corresponding discounts I have spoken of? A. Yes, sir.

Q. Ten per cent. is the amount? A. Yes, sir.

Q. Do you remember what the price of a mower is now? A. \$38.50.

Q. Now, was not the price on the mower in 1902 \$2.50 less than that, \$36.00? A. That is about right; yes, sir.

Q. And the discount in 1902 was five per cent. for cash and the discount now on a mower is seven per cent, these figures are correct? A. Yes, sir.

Q. And between 1902 and 1908 there was not any increase on a mower, the first increase was the season of 1908? A. The beginning of last season was the first increase.

Q. Now, the International Harvester Company of America never handled wagons before 1905, did they? A. I have only been handling them two years.

Q. During these two years you say there has been no increase in prices of the wagons that came to you? A. No, sir.

Q. But those on the outside during these two years have increased the prices? A. Yes, sir.

Q. As to whether there has been any increase in wagons prior to the two years you handled them, you do not know? A. No, sir; I do not know anything about it.

Q. You have been only handling wagons two years? A. Yes, sir; two years is all I handled them.

Q. You are perfectly free as an agent to sell at any price you like? A. Yes, sir.

Q. You could sell it if you like very much less than you paid for it? A. Yes, sir.

Q. And very much more? A. Yes, sir.

Q. You are absolutely free? A. Yes, sir.

Q. When you state a certain price was suggested to you, it was not written? A. No, sir; only the advice I get from my local blockman.

Q. When he comes around and talks to you, he says the agent over there is getting \$130.00 or \$135.00 for a seven-foot binder and approximately \$5.00 less for a six-foot? A. Yes, sir.

Q. There is no special price for you to get? A. No, sir.

Q. That is left for your own suggestion? A. Yes, sir.

Q. When you state you got the Milwaukee binder for \$85.00 or \$90.00, are you not mistaken about that price? A. That is back in 1898.

Q. That is one machine you remember of having gotten for that price? A. No, sir; the contract price in 1898, I am under the impression the six-foot was \$85.00 cash and \$90.00 on time; I am not positive.

Hon. Theo. Brace, Commissioner: You mean in 1898? A. Yes, sir.

Q. Have you got your contract with you? A. I did not bring it.

Q. Have you got it at home? A. Yes, sir; I think so.

Q. Is the price mentioned in your contract? A. Yes, sir; the wholesale price.

Q. You are not positive about the price being \$85.00? A. No, sir; it might be \$5.00 more.

Q. It might have been \$95.00 cash and \$100.00 on time? A. Yes, sir.

#### RE-DIRECT EXAMINATION.

By Hon. Charles G. Revell:

The prices may have been that amount, but your best impression is it was \$85.00 or \$90.00? A. Yes, sir.

Q. That is your best judgment? A. Yes, sir.

Q. Now, when these agents came around— A. But that represented the cash price; there was five dollars more on time.

Q. That was on time? A. Yes, sir.

Q. When these agents or block men came around and suggested the price, they said it is their business, they would like to have uniform prices on these machines? A. Yes, sir.

Q. And in that connection in stating that, they would like to maintain uniform retail prices, they suggested that this price, and that price is the price realized by their agents? A. Yes, sir; that is what their agents are supposed to get for them.

Q. Now, you state that sometimes there is a little activity between two Deering agents to sell machines to the same man, it does not matter which man sells the machine, the International Harvester Company of America gets exactly the same amount of money? A. Yes, sir; the contract price.

Q. Are you permitted to go into a town where another agent is located and sell a machine there? A. No, sir.

Q. If you do that, your commissions would be forfeited to the other agent? A. That is the custom.

Q. It is written in the contract? A. No, sir.

Q. It is a custom? A. Yes, sir.

Q. You are given to understand that by the company's agents? A. Yes, sir.

Q. Now, this Johnston machine you stated the people did not want it; that machine is of a different class; it is not up to the standard of the machines made and sold by the International Harvester

Company of America? A. No, sir; it is not as complete a machine.

Q. Do you know of any binder that is made except the International Harvester Company binders that will compare with the machines they control? A. There is none made.

Q. They control that class of machines? A. Yes, sir.

#### RE-CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your contract does provide that you shall not go into another agent's territory? A. It may be written.

Q. But, as a matter of fact, you do not take any particular careful attention to where the dividing line is, if there is a farmer over there that wants a machine? A. No, sir.

Q. You never knew of a commission being cancelled because of the fact that a man sold out of his territory? A. No, sir.

Q. You never know of an agency rescinded for that reason? A. No, sir.

Q. In other words, you get your business where you can? A. Yes, sir; that is about right.

Q. If you had a farmer that is a little nearer to you than the other Deering man, and you thought your persuasive powers were better, you would make an effort to sell the machine? A. Yes, sir; that is right.

Q. I understand you to say there was no binder made by any body that would compare with the patterns made by the International Harvester Company of America? A. No, sir.

Q. I do not suppose the Wood or Johnston would quite agree with that? A. No, sir.

Q. That is your experience? A. Yes, sir.

#### RE-DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. At least your trade down there is of such a character that the other machines cannot be sold in that territory? A. Very little sold; only now and then they will not take them universally.

Q. They are universally against them? A. The farmers were the experienced men, and they know the best.

Q. You are impressed with the fact by the agents and block men in the event that if you sell in another man's territory that the company can, if it wants to, take your commission? A. Not unless I go in the town, provided I go right in the town and sell them; it is naturally expected, of course, that that agent would get the commission.

Q. You never have been so advised by their agents? A. No, sir.

Q. You are impressed with the fact by the blockmen if you go and encroach on the other agents' territory, he can demand your com-



mission? A. Yes, sir; that is the rule of all implement houses, plows, etc.

(Witness excused.)

HENRY ELLWOOD, of lawful age, being duly sworn, upon his oath testifies as follows:

DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. Where do you reside? A. Cameron; my business is at Lathrop; I moved to Clinton the first of March.

Q. Clinton county? A. Yes, sir.

Q. In what business are you now engaged? A. Well, I am on the farm this spring, but I have business at Lathrop; I am on the farm.

Q. Have you been in the implement business? A. Yes, sir.

Q. How long? A. Twelve or thirteen years.

Q. State if at this time you handle goods belonging or sold by the International Harvester Company of America? A. We commenced again this spring.

Q. You commenced again this spring? A. Yes, sir.

Q. Have you been selling their goods in a former day? A. Yes, sir.

Q. When? A. 1906.

Q. What was the occasion and how did it come about that you quit handling their goods at that time? A. We bought another binder, the Acme, and put it on the floor; when the man came to canvass, we told him that we had bought the Acme binder, and was going to handle that this year.

Q. What followed? A. In about a week he came back again to canvass, and he asked me about canvassing; we told him we were busy, but we would go; he said what about the other machines? I told him we contracted for it, and we never went back on our contracts, and we were going to sell the machine. He said then, they told me to go to the other house; I told him to go and take your stuff with you.

Q. In other words, if you sold the Acme, you could not sell theirs? A. Yes, sir; could take out theirs.

Q. What machine were you handling? A. The Deering.

Q. They took the Deering out and placed it where? A. Where the International Harvester Company stuff was; where the McCormick was.

Q. After they took the Deering out of your hands, what did they do about putting other agents in the field? A. They seemed to put in more agents and work the field harder.

Q. You handle the Acme? A. Yes, sir.

Q. And the succeeding season? A. Yes, sir.

Q. During the two seasons how did your sales correspond with their sales? A. The first season that we each sold a machine, the next year we sold a few more than they did.

Q. You sold more of the independent machines than they did above their machines? A. Yes, sir.

Q. At your locality? A. Yes, sir.

Q. That carried you up until this spring? A. I think it was the next year; then we sold quite a few, each one of us; I think they beat us that year; that carried us to this year; then this year they came up and wanted us—

Q. After the first year they had taken the Deering away from you did they come back and ask you to take one of their lines and handle it, and let the Acme go? A. Yes, sir; they came up next spring and wanted me to handle it.

Q. They did not want to let you have it? A. Yes, sir; he said if we had the contract, and that we could sell those if we did not buy any more; I told him that we could not do it.

Q. Did they come back the next year and want you to handle it? A. Yes, sir.

Q. They finally came back this year, 1909? A. Yes, sir.

Q. When did they come back this year? A. Some time the contracts were made in December or the first of January.

Q. It was practically for this year? A. Yes, sir.

Q. When the agent came back the International Harvester of America man wanting you to handle goods, what did he say? A. He said we could keep the Acme.

Q. He tried that with you three different seasons? A. Two.

Q. To keep you from handling the Acme and wanted you to handle theirs? A. Yes, sir.

Q. And to take your line away from you, because you were handling the Acme? A. Yes, sir.

Q. And finally when he consented to you handling your machine and the Acme? A. Yes, sir.

Q. What machine do you handle of theirs? A. The Deering.

Q. Now, then, the International Harvester Company of America, they manufacture five or six different binders, do they not? A. Yes, sir.

Q. They manufacture the Deering, the McCormick, the Plano, the Champion, and what is the other? A. Deering.

Q. And the Osborne? A. Yes, sir.

Q. Now, then, in these different machines which they make in the same town they often times have different agents handling different lines of their machine? A. Yes, sir.

Q. These agents, are you all given the price at which you sell a machine? A. They expect us to maintain a uniform price.

Q. They instruct you to that effect, do they not? A. Yes, sir; the agent told me this year the man came up this spring, and said he could buy one for \$10.00 less in another town, and spoke to our agent about it, and he said he had never written one for that, and would not sell it.

Q. In the five or six machines they make they have different agents in the same town selling them, there is no competition in these

agents in selling these machines, the prices being the same? A. Yes, sir.

Q. The only controversy and warfare is among the agents praising his particular machine one above the other? A. I believe that is about it.

Q. You have handled machines in that immediate neighborhood for many years? A. Yes, sir; several years.

Q. And you are well acquainted with the trade in that section of the State? A. Yes, sir.

Q. The machines which the International Harvester Company of America sells themselves, that composes practically all standard machines upon which the State trade has been worked up in this State? A. Yes, sir.

Q. Now, before the International Harvester Company of America secured these five or six different machines in their agreement or whatever you may call it, up to that time in selling machines, you could make your own prices, particularly to the customer? A. Yes, sir; we did.

Q. But at this time you cannot buy a machine outright from the International Harvester Company of America, can you? A. They carry them.

Q. You never tried it? A. No, sir.

Q. Did you ever hear of any one buying a machine from them outright? A. No, sir.

Q. You are required to handle them on commission? A. I never tried them any other way.

Q. You don't know of anybody handling them any other way except on commission? A. No, sir.

Q. Now, prior to the time of the International Harvester Company of America acquiring these companies, often times the company themselves would grade their own list price to the dealer in helping you out in making sales? A. Yes, sir; sometimes they helped us out a little.

Q. That was part of the competition between the companies manufacturing these machines? A. Yes, sir.

Q. And these same machines are now being manufactured by the International Harvester Company of America and New Jersey? A. Yes, sir.

Q. Now in the town in which you conducted this business, what was the size of your town? A. About twelve hundred.

Q. How many business men were engaged in the implement business there? A. I think three; two hardware stores and a blacksmith.

Q. This is at Lathrop? A. Yes, sir; two hardware stores and a blacksmithshop; one implement house in the blacksmithshop.

Q. There was not enough men engaged in the business, implement business in your town, to divide around to have one agent for each of your separate machines? A. No, sir.

Q. Had there been enough implement men engaged in your town to have taken up and handled other machines, would you have been able to have gotten their machines?

Hon. Selden P. Spencer, counsel for respondent:

We object to the question as calling for an opinion of the witness.

Hon. Theo. Brace, Commissioner:

Just let the witness testify to the facts; you can draw the conclusions.

Q. When the International Harvester Company of America was organized and began selling these other machines in Missouri state to the court whether or not the first season they reduced the prices of the machines—that is, the binders, the first year? A. I do not remember.

Q. You do not remember? A. No, sir.

Q. If they raised the prices of the machines? A. Well, in late years, I think they have.

Q. How much have they raised the machine in prices comparing, say 1902, with the season of 1908? A. I expect \$18.00; I am not certain.

Q. On the machine? A. Yes, sir.

Q. That would be a six-foot machine? A. Yes, sir.

Q. In your town at the time the International Harvester Company of America—

Hon. Selden P. Spencer, counsel for respondent:

Which town?

A. Lathrop.

Q. In your town, Lathrop, at the time the International Harvester Company of America made you the concession, was there any other man handling machines made by the independent companies?

A. No, sir.

Q. No one but yourself? A. Not that I know of.

Q. If any one was handling them you were in a position to know it? A. Yes, sir.

#### CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. When was the International Harvester Company of America organized, Mr. Ellwood? A. It has been some six or seven years.

Q. When, do you remember? A. No, sir.

Q. How are you able to tell what happened before or after? A. Since '66; since they took the one away from us, 1906.

Q. That is the year you think it was organized? A. No, sir.

Q. Do you remember when it was organized? A. No, sir; I do not; it was a few years before that.

Q. How many machines did you sell last year? A. Seventeen.

Q. What is the largest number of machines you ever sold in a year? A. That is the largest.

Q. What is the smallest? A. One.

Q. Your sales averaged from one to seventeen a year on binders? A. Yes, sir.

Q. At Lathrop there are three firms handling machines? A. Yes, sir.

Q. Two of these do not handle the Harvester machine? A. No, sir.

Q. Of the three firms only one of them handle the International Harvester of America? A. Yes, sir.

Q. The two others handle the other machines? A. Yes, sir; one the Acme and one the Johnston.

Q. Who was the man you say spoke to you in 1906? A. About what?

Q. About giving up the Acme agency? A. The agent that came up to canvass.

Q. What was his name? A. He was not there but a short time; he quit soon afterwards.

Q. Do you know his name? A. No, sir.

Q. Do you know where he lives? A. No, sir.

Q. That the first time he came there? A. He only came twice.

Q. Do you know he did not belong to another company? A. He was in the interest of the International Harvester Company.

Q. How do you know? A. He came to canvass for the Deering.

Q. Did he go out with you? A. Yes, sir.

Q. Do you know where he lives? A. No, sir.

Q. How old a man was he? A. He was a young man, just starting out.

Q. What appearance, a mustache? A. I think so.

Q. A beard? A. No, sir.

Q. Tall? A. No, sir.

Q. Thin? A. Yes, sir.

Q. You cannot give any further description of him? A. No, sir.

Q. And now you are selling the Deering? A. Yes, sir; that is, the firm is; I am out on the farm this spring; I quit the first of March.

Q. You are in the business this year? A. No, sir; my interest is down there; I am not in the store.

Q. You are selling the Deering now? A. Yes, sir; they are.

Q. Your firm? A. Yes, sir.

Q. They are also selling the Acme? A. Yes, sir.

Q. They are selling both machines at this time? A. Yes, sir.

Q. When you ceased selling the Deering before in 1906, there was not an independent agency presumably in the town? A. No, sir.

Q. A. Yes, sir.

Q. You have a farm? A. Yes, sir.

Q. What machine do you use on your farm? A. I am using an Acme; I had a Deering, and I traded with another farmer who was not just satisfied, and made the trade with a Deering.

Q. Did you give some to boot on it? A. No, sir; I got boot; mine was a new one.

Q. Mr. Ellwood, when you speak of prices at which your firm sells to the farmer, they are privileged there to sell at any price they like? A. I suppose they can.

Q. No limitation at what price they can sell? A. No, sir; no binding price.

Q. All is done, the suggestion is made what other agents are getting, and you are left to sell for yourself? A. Yes, sir.

Q. You never were authorized about what you should sell at? A. No, sir. This spring the man was there and he came in and said he could get it for \$10.00 less than what we were getting, and our man said he did not know anything about it; we did not sell it.

Q. You are free to ask and realize any price you and the farmer should want to pay? A. He did not seem that he wanted to do it.

Q. You yourself are perfectly free to sell at what price? A. I am not selling this year.

Q. When you did sell? A. Yes, sir; I would sell at what I wanted to.

Q. Is there some competition between you and the man selling the McCormick in your town? A. Yes, sir; some.

Q. It has rather increased? A. Yes, sir.

Q. You try to sell your Deering machine with all the strength and vigor in you? A. Yes, sir.

Q. And he did his McCormick? A. Yes, sir.

Q. Is there as much competition between you and your Deering—do you make more competition with your Acme? A. The competition is harder against the Acme.

Q. You are using the Acme machine on your farm? A. Yes, sir.

Q. The one you are using on your farm you had sold to somebody else? A. Yes, sir.

Q. You had to take it back? A. No, sir.

Q. You did take it back? A. Yes, sir.

Q. The man you sold to wanted to get rid of it? A. We traded.

Q. That is the reason you are using the Acme, instead of the Deering? A. Yes, sir; that is the way it is today.

Q. There never has been any increase in the price of the binder until the season of 1908? A. I think not.

Q. Am I right when I say the prices used to be \$100.00 with five per cent. off for cash, and now \$107.50 and seven per cent. off for cash? A. Yes, sir.

Q. That is the only increase in price you know anything of? A. Yes, sir.

Q. When you first took on the Acme you had the Deering? A. Yes, sir.

Q. And then you took the Acme? A. Yes, sir.

Q. You made the Acme the leader? A. Yes, sir. When the man came up to canvass for the Deering, I told him I had contracted for the Acme; I told him we would have it inside of ninety days.

Q. You had your money in the Acme? A. Yes, sir.

Q. Your money was in the Acme? A. Yes, sir.

Q. Your money was not in the other? A. No, sir.

Q. In other words, you were financially interested in the Acme? A. Yes, sir.

Q. If you did not sell the Acme you would have your money tied up in it? A. We pay cash for both now.



Q. Do you mean to say you did not make any difference under these conditions? A. I did not then; I had not sold any.

Q. I am talking about your efforts you made? A. No, sir; if we have two machines, the man can take his choice; of course, we would not try to sell some one more than the other. For illustration of that now, suppose there was a man came in and wanted the Acme binder, we sold it to him, and he went off, and the Deering man got after him and told him he could not get the extras only by the car load, and a whole lot of stuff that was not so, and the man came back to us; we wrote right to the house and told them that the man must not do these things, and we got a letter back that he must let each binder alone.

Q. I am not talking about what you do now; I am asking if, when you took on the Acme and put your money in that machine, you made it a leader? A. No, sir; they took theirs out before we got theirs; we never get a chance.

Q. You are now handling them on an equal basis? A. Yes, sir.

#### RE-DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. You, in handling the Deering, and your opponent in handling the McCormick, you people do not cut the price on these machines?

A. I am not sure; last spring—they have not cut the price; we lost the sale of a Deering, because we would not cut the price.

Q. As far as the price cutting is concerned, they are sold at the same figures? A. Yes, sir; we made the sale; we had the same figure; I am not sure this spring; I cannot tell what they are doing there now.

Q. In the prices suggested by the company or allowed by the company at which these machines are to be sold, you are holding their prices on commission? A. Yes, sir.

Q. They being the owner of the goods, they suggest to you as their agent at what prices you should sell them? A. That is what the man told us; I am not sure now; I cannot answer that intelligently.

Q. When you were handling them, did they impress you with the fact of uniformity of price? A. Yes, sir.

Q. You carried out their instructions along that line? A. Yes, sir; as near as we could.

(Witness excused.)

JOHN L. DICKERSON, of lawful age, being duly sworn, upon his oath testifies as follows:

#### DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. State your name. A. John L. Dickerson.

Q. Where do you reside? A. Tina, Missouri.

Q. Carroll county? A. Yes, sir.

Q. What is your business? A. I am in the implement and hardware business.

Q. How long have you been in the business? A. Twelve years.

Q. At this time you handle the goods of the International Harvester Company of America, I believe? A. Yes, sir.

Q. How long have you been handling their line of goods? A. I judge about ten years; well, not since I commenced handling the International Harvester goods; I handled the Deering line before that.

Q. You handled the Deering line before the organization of the International Harvester Company? A. Yes, sir.

Q. Do you remember the year they were organized? A. I think about five years; I kept on handling the goods.

Q. No matter when they organized you continued handling the Deering? A. Yes, sir.

Q. And have it today? A. Yes, sir.

Q. Three or four or five years ago you were thinking about putting in the line of machines that were manufactured by the Acme people? A. Yes, sir; I do not remember when it was; there were men there; we talked it over once or twice; I do not remember when it was.

Q. When the independent man had visited you in reference to putting in the Acme machine, you afterwards had a conversation with the International Harvester Company of America then, and told him you were thinking about putting in that machine also, did you not? A. I think, maybe I talked something to him about it; I do not just remember.

Q. He told you in that conversation that if you did you could not have their machines? A. Well, of course, I talked with him in a joking way; he is the block man; he comes there, and I think something along that line was said.

Q. As a matter of fact, he did tell you you could not handle his line? A. I do not think I am forced to handle their line of goods.

Q. That is the International Harvester Company? A. Yes, sir.

Q. When you told him about the Acme, he told you if you handled the Acme you could not handle their machine? A. I think he said if I put theirs on the floor he would take theirs off.

Q. Do you remember when that was? A. No, sir.

Q. 1907, two years ago? A. No, sir; it seems like it was longer than that; I am not sure when it was.

Q. Now, you handled the machines manufactured by the International Harvester Company on a commission? A. Yes, sir.

Q. They are consigned to you as their agent? A. Yes, sir.

Q. They consign them to you at a certain list price? A. Yes, sir.

Q. And in consigning them to you at the list price, they also state to you the price at which you should sell them to the trade, do they not? A. I do not think so; only the agents will state that the machines sell for so much; that the McCormick sells for so much, and the Deering, and that they all have a regulation at which they sell them at; the goods belong to the International Harvester Company, and not to me. If they make the price I should sell them at that price.

Q. They do state that the McCormick, Plano and Deering all sell at the same price? A. Yes, sir; that is my understanding.

Q. Not only all the same price, but, as a matter of fact, they sell them at the same price? A. Well, I have sold goods at different prices, International Harvester goods myself; sometimes a man would come down to my place and want to buy a binder, and say, cannot you do better with that binder than that? and I said, I will throw in a sack of twine.

Q. And because you did that the company fixed the price? A. No, sir.

Q. Why do you not say you will sell the machine for so much? A. I do not believe there will be any penalty if I cut the machine \$5.00.

Q. The reason you do not try it is because the agent that put the machine in your business instructs you you must sell it at a certain price? A. No, sir; I am in the business to sell it for that, if I can get \$150.00 for a seven-foot binder, it is my business to do it.

Q. If you absolutely lost? A. Yes, sir.

Q. If they fix the price and you should violate it, they might take the Deering away from you? A. They might.

Q. You have not tested them on that, in cutting the price? A. No, sir; I and the other dealer want to keep our prices up.

Q. The only way you changed your price was when you threw something in for good measure? A. Yes, sir; I do in that way.

Q. You say you and your competitor try to get the same price, who is he? A. J. J. Edmonds.

Q. Who is he? A.

Q. You both are agents for the same company? A. Yes, sir; we often ship our goods together.

Q. The company does not raise any kick about that? A. No, sir.

Q. You get your goods in, and they come in the same car? A. Yes, sir.

Q. You set them out for sale? A. Yes, sir.

Q. The farmer looks at the McCormick and the Deering, and he pays the same price and takes his choice? A. Yes, sir; he can do that if he wants to.

Q. Now, before the organization of the International Harvester Company of America you sold these machines at different prices; they were not sold at the same price, were they? A. No, sir; I don't know as they were.

Q. As a matter of fact, prior to your organization, they were sold at different prices, you sold them yourself at different prices? A. Yes, sir; I tried to get all out of them I could.

Q. Prior to that organization of the International Harvester Company of America, you did not think about throwing in a sack of twine? A. Yes, sir; I have.

Q. You did cut the price directly on the machine? A. Yes, sir; I have taken off a few dollars.

Q. Your competitors have done the same thing? A. Yes, sir.

Q. There was a hot rivalry and strong competition going on between these machines, the McCormick and Deering, prior to the consolidation? A. I don't know whether there were any more or not; we are trying to get all out of it we can.

Q. The rivalry then resulted in cutting the prices of the machines? A. Yes, sir.

Q. The rivalry now between you and your competitor in your town does not cut the price of the machine? A. It does if we throw in five or ten dollars worth of twine.

Q. In other words, if you cut the price it is because you have whipped the devil around the stump? A. Well, I don't know about that; whether it is that, whether or not it is that way, if we see fit to cut the price I do not think it would be any penalty on that; I do not think I am bound to sell machines at any price.

Q. As a matter of fact, you have not done it? A. No, sir.

Q. The reason why you have not done it is because of the conversations and talks and instructions you had with the agents of the company, that is the reason why you have not cut it? A. I do not think so; that is all of it; I wanted to make all the money I can out of the business; I would like to get out of the binder all I can.

Q. You would not want me to understand that you and your opponent, Mr. Edmonds, have gotten together and agreed not to cut? A. No, sir.

Q. That is not the reason you have not cut your price? A. I expect the agent in talking to both of us—and the machines are selling at Hale & Bayards and other places, we feel like we ought to have the same price for our machines.

Q. Have you in your business career received typewritten directions to sell them at uniform prices? A. I do not think so.

Q. Are you certain? A. I do not think so.

Q. What do you sell a six-foot Deering binder for? A. A six-foot Deering binder without the tongue we get \$130.00 for that.

Q. Now, who suggests to you the price that you sell that six-foot Deering binder for \$130.00. Where do you get that price from that you place on that machine? A. We had been getting \$120.00 to \$125.00 for that machine up until the raise came on the machine.

Q. A raise came from the companies? A. Yes, sir.

Q. When they raised, of course you had to raise, in raising to the \$130.00 who suggested that you go to the \$130.00? A. I don't know as any one suggested to me that I go to the \$130.00.

Q. Did they not, the agent of the International Harvester Company of America, suggest that was the price they were being sold for? A. No, sir.

Q. You would not say they did not? A. I don't know as they did not; of course, we had lots of talks; he might have suggested they were selling for that price.

Q. You do not mean to say you fixed that price yourself? A. Yes, sir; I think I did; of course, I had been selling for lower price, and when they put the price up, it would be natural for a man that

he would put the price up; everything, you understand, has advanced in price as well as binders; I do not think binders have advanced any more than other goods, and as much as something else; I buy a great deal of goods, and they cost me more money.

Q. Handling goods on the commission as a business man, the seller fixes the price at which they are to be retailed; is that not the uniform custom? A. I am selling the goods.

Q. When goods are delivered to you on consignment for various companies as their agents, do they not fix the retail prices? A. Well, the block man says he is selling for about so much money.

Q. If the block man said, the six-foot Deering is selling for \$130.00? A. He might have.

Q. Who fixed the price when you sold for \$120.00 or \$125.00? A. I expect the same way, then.

Q. In other words, the agent fixed the same?

Hon. Theo. Brace, Commissioner:

The price to you is a fixed price, you have to account to the company for a certain price, whatever you sell it for, you have to account to the company for the schedule price that they fix? A. Yes, sir.

Q. And then you sell for the best you can get? A. Yes, sir.

Examination resumed by Hon. E. W. Major:

Q. But in selling for the best you can get, you still maintained the uniform price? A. We try to.

Q. You cannot name me a single instance at which you sell the Deering machines direct on a cut at all to anybody, can you? A. Yes, sir; I think I could.

Q. Where you made a cut directly on the machine? A. Put in twine; it is all the same thing; if I give a man \$5.00 worth of twine, it is the same thing.

Q. Did you tell him why it was necessary you should give him \$5.00 worth of twine? A. No, sir.

Q. If you could cut the machine at what you please, why did you not cut the machine \$5.00? A. I might have done that, if I did not think there would be any penalty.

Q. Do you think there was? A. No, sir; I would rather give my man a sack of twine than cut the machine; I would have my sack of twine sold.

#### CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. Sometimes \$5.00 worth of twine looks bigger than \$5.00? A. Yes, sir; I think so, to me.

Q. In other words, you are perfectly free to sell at any price you want to? A. I think so.

Q. You have been in business twelve years? A. Yes, sir.

Q. You never knew an agent having any discipline or a contract taken away because of selling at any price he wanted to? A. No, sir.

Q. Do you belong to the Western Implement Association? A. Yes, sir.

Q. They are a great deal more strict in prices among themselves than the companies that manufacture the machines? A. Yes, sir.

Q. Who was it talked to you about the Acme? A. An old like fellow.

Q. Do you remember what his name was? A. No, sir.

Q. Do you know what year it was in? A. No, sir.

Q. You never made up your mind to take the Acme? A. No, sir; he just came in and talked to me.

Q. You said in your testimony that your talk with him was rather jokingly? A. That was with the block man.

Q. Who was he? A. Mr. Bassett.

Q. That the man that said, if you put the Acme along with the Deering, you had better take this out? A. Yes, sir.

Q. You never made up your mind definitely to take the Acme? A. No, sir.

Q. You never made up your mind definitely about that? A. No, sir.

Q. You are perfectly free to handle the Acme? A. Yes, sir.

Q. At that time when you thought of taking the Acme you knew you would have to buy the goods actually from the Acme? A. Yes, sir.

Q. Whereas, the McCormick machines you were handling on a commission? A. Yes, sir.

Q. I mean the Deering? A. Yes, sir.

Q. So, if you had taken on the Acme you would have had the Acme goods that represented your own money? A. Yes, sir.

Q. Mr. Dickerson, is the McCormick handled in your town? A. Yes, sir.

Q. At Tina? A. Yes, sir; Mr. Edmonds handled it.

Q. Is there competition between you and Mr. Edmonds? A. Well, I think so.

Q. He tries to sell his? A. Yes, sir.

Q. And you try to sell yours? A. Yes, sir.

Q. And sometimes he might put in \$6.00 worth of twine to sell his over yours? A. Yes, sir; I think he does sometimes.

Q. It is the same way on the other lines of goods that you and Edmonds handle, plows, etc.? A. Yes, sir.

Q. In other words, your dealings between him and you on harvesters are about exactly the same between you two on plows and drills? A. Yes, sir; we do not figure on cutting prices very much; there is not very much; the prices are whittled down. You gentlemen know that.

Q. The reason you keep the prices up is for your own interest? A. Yes, sir; we both cut prices.

Q. You handle plows? A. Yes, sir.

Q. And Edmonds handles plows? A. Yes, sir.

Q. You handle threshers? A. No, sir.

Q. Now, in plows there is the same kind of competition between you and Edmonds as between you and Edmonds on binders? A. Yes, sir; the same difference.



Q. The International Harvester Company of America do not handle any plows? A. No, sir.

Q. You buy your plows of somebody else? A. Yes, sir.

Q. There is exactly the same kind of competition between you and Edmonds in regard to plows as between you and Edmonds on binders? A. Yes, sir; I think so; we both try to sell what we can; that is what we are there for.

Q. You are as keen to maintain your prices on plows as binders? A. Yes, sir; I think so.

#### RE-DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. The similarity between you and Mr. Edmonds in business is you both try to sell all you can; there is where the similarity comes in and extends no further than that? A. Yes, sir; that is right.

Q. The trouble of you taking the Acme was not on account of that you would have to pay for the Acme when you got it, but the agent stated to you if you get the Acme they would take the Deering away? A. That was quite a while after I talked with the Acme man.

Q. But you were not objecting because you would have to buy the Acme? A. I did not want to handle it anyway.

Q. Yet you told the International Harvester Company you did or was thinking about it? A. Yes, sir; I was joking with the block man about it.

Q. Now, you buy your twine from the International Harvester Company of America? A. Yes, sir; part of it.

Q. From whom do you get the majority of your twine? A. From the International Harvester Company of America.

Q. What per cent. of your twine do you buy from the International Harvester Company of America, practically all of it? A. Yes, sir; practically all of it.

Q. Practically all? A. Yes, sir.

(Witness excused.)

WM. A. SWOPE, of lawful age, being duly sworn, upon his oath testifies as follows:

#### DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. Mr. Swope, what is your given name? A. Wm. A. Swope.

Q. Where do you reside? A. Weston.

Q. Platte county, Missouri? A. Yes, sir.

Q. What is your business? A. Hardware and implement.

Q. How long have you been in the Hardware and implement business? A. Ten years, going on eleven.

Q. Did you ever handle any of the goods of the International Harvester Company, any of their binders? A. Yes, sir.

Q. How long did you handle them? A. We have handled their goods exclusively up to 1908.

Q. 1908? A. Yes, sir.

Q. What one of their binders did you handle, what make? A. The Plano, Milwaukee and McCormick.

Q. You had three of them? A. Yes, sir.

Q. And prior to the organization of the International Harvester Company of America, which one of these machines did you handle?

A. Only one; we had the Milwaukee; then we had the Plano after that.

Q. Now, you say you handle their goods exclusively up to 1908?

A. Yes, sir; with the exception of 1907 we sold several of the Acme.

Q. Tell to the court what was the occasion of your quit handling or not being able to handle the goods of the International Harvester Company of America; state the circumstances? A. Well, in 1908 we contracted for the Acme machine, and we had it on the floor; their block man, the International Harvester Company of America blockman, came up and wanted to know how about contracting for their line of goods; we told them we were ready and could contract with him and he wanted to know what about the independent machines; I said we were contracting for them, and he said, well, you do not have to handle our goods, unless you want to; I said, "I know that;" so I told him that we had plenty of room there, and he could put in his machine along there if he wanted to; he said, "he would not put his machine in along the side of the independent machines; I said, "if you do not want to do that he could take his junk out of there;" he had his repairs in there; he wanted to know how long he could leave them there; I said, "take them out right away;" and he got his man and took them out.

Q. What was his name—Mr. Marshall? A. I forget his name.

Q. You told him that you were willing to handle his machine?

A. Yes, sir.

Q. And he said to you, you could not handle his machine and the Acme too? A. Yes, sir.

Q. I will ask you to tell to the court whether or not while you were handling his machine, I believe you said this was 1908? A. Yes, sir.

Q. During the time you were handling these machines, state what they did towards fixing your price towards the retailer? A. One year they sent us a typewritten direction to sell by.

Q. To retail the machines by? A. Yes, sir.

Q. Do you remember what year? A. Either two or three years ago; I looked for that paper the other day; I could not find it.

Q. You think it was 1907? A. Either 1906 or 1907.

Q. After that time did the agent suggest to you the price you were to sell these machines at? A. Well, I do not really remember about that, but they always intimated for us to sell at certain prices.

Q. They would name the price? A. Yes, sir.

Q. The uniform price was maintained? A. Yes, sir; to a certain extent.

Q. Now, prior to the organization of the International Harvester Company of America, the competition that took place between

the machines resulted in cutting the prices of the machines, did it not? A. Prior to the organization of the International Harvester Company of America.

Q. While these companies were independent concerns, there was a strong competition which resulted in a cutting of prices of the machines? A. Yes, sir.

Q. State whether or not the companies would cut the prices and help you out? A. They would give us the freight allowance; they would equalize freight with us.

Q. Did the International Harvester Company of America do that? A. Yes, sir; that is, prior to the organization.

Q. But since the organization of the International Harvester Company of America, since it has organized, is that done now? A. You do not get anything.

Q. Prior to the merger, you did? A. Yes, sir.

Q. Now, after you began pushing the Acme and they took from you their line, what did they do in regard to sending additional agents to your territory? A. They had a man there pretty near all the time.

Q. How was it before that time? A. I suppose every other week or two weeks; we had a man there whenever we needed him.

Q. They did not keep a man here all the time prior to that time? A. No, sir.

Q. When you were representing them, did you have certain territories? A. Yes, sir.

Q. What directions were you given in regard to your territory? A. We were not to encroach on the other territory.

Q. You had certain directions given you, and you were not to encroach on the other agent's territory? A. No, sir.

Q. All the goods you got from the International Harvester Company of America, you got on consignment? A. Yes, sir.

Q. You could not buy from them outright? A. We never tried.

Q. You don't know of anybody they sold that way? A. No, sir.

Q. So far as selling the respondents' various machines when they have different agents in the same town, the prices of each machine are the same? A. Yes, sir.

Q. That is the case in your town? A. Yes, sir.

Q. So there was no real competition between the various machines manufactured by the International Harvester Company of America so far as the company cutting prices were concerned? A. No, sir; not as I know of.

Q. They made the same price on all? A. Yes, sir.

Q. The prices were all the same on those you handled? A. Yes, sir.

Q. How many dealers are there in your town? A. Two.

Q. Who is the other dealer? A. W. J. Rumble.

Q. What does he handle? A. The Deering, Milwaukee and McCormick; he got in three machines this year.

Q. You are the only other agent? A. Yes, sir.

Q. You handle the independent? A. Yes, sir.

## CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. Prior to the organization you got some concession in the equalization of freight rates? A. Yes, sir; we always got the figures on freight rates; he would have us save up the freight bills; he always would have the same concession to give us.

Q. The freight rates are more stable now? A. I don't know; we never get it.

Q. The last few years, as far as freight rates are concerned, there is not the same disturbance in freight rates as there used to be? A. No, sir.

Q. How many International Harvester binders did you sell in 1907, do you know? A. In 1907?

Q. Yes. A. We sold two or three of them.

Q. How many did you sell in 1906? A. I do not remember.

Q. More than that? A. I don't know; I could not say.

Q. What is the most you ever sold in a year? A. Thirteen of them.

Q. That in 1906? A. No, sir; that is the first year we handled the Plano; I forgot what year that was.

Q. Do you know how 1906 and 1907 compared? A. I could not tell about that.

Q. Would you say in the last few years your sales averaged two or three or four binders, something like that? A. Yes, sir; something like that.

Q. In the last few years you handled the Acme? A. Yes, sir.

Q. How many did you sell? A. I think the same we sold.

Q. The same number of each? A. Yes, sir.

Q. Nothing said about it when you were selling them? A. No, sir; the International Harvester Company people did not know anything about it as far as we knew.

Q. Would not that man that came every week or whenever you needed him, come into your place? A. We did not have him come.

Q. I thought you said before 1908 he came every other week. A. Our competitors had him to come; we were not pushing the binder business in 1907 very hard.

Q. Not very hard in 1907? A. No, sir; nor any other time; it is a side line.

Q. Now, in 1907 you were not pushing very hard? A. No, sir.

Q. It was taken away from you in 1907? A. In 1908.

Q. Who is your blockman? A. Marshall.

Q. You and he had some heated words? A. No, sir.

Q. You had plenty of space there? A. Yes, sir.

Q. That is what you told him? A. Yes, sir.

Q. When you also told him to take out that day his junk? A. Yes, sir.

Q. Was that a very pleasant relation? A. I don't know.

Q. You made him take them out? A. No, sir; I told him he could take them out; he got his man to check them up and took them all the next day.

Q. Do you remember who sent you the typewritten list you spoke of? A. I think at headquarters in Kansas City.

Q. Do you remember how it came? A. It came with our contract; when our contract was mailed to us.

Q. In the same envelope? A. Yes, sir.

Q. Do you remember what years? A. I think in 1906 or 1907; I could not say exactly, I remember of us getting it.

Q. Was it simply a list of prices as you recollect it? A. Yes; it was the prices we were to sell the machines at.

Q. You felt perfectly free to sell at whatever price you wanted? A. If we wanted to and felt that way.

Q. It was only a side line with you; you got whatever price you wanted to? A. We wanted to make some profit; we did not want to sell it for nothing.

Q. If you could sell the machine by discounting it \$5.00 or \$10.00, you would do it? A. We were led to believe that we were to get a certain price in that; I know nothing about that.

Q. Perhaps you did not understand my question; when you sold your machine you sold at whatever price you wanted to? A. We sold at a stipulated price.

Q. Never at any other price? A. No, sir.

Q. Do you mean to say you never sold at any other price? A. No, sir.

Q. Do you know of anybody that was called down because of not selling at a stipulated price? A. I don't know anything about that.

Q. You say you have certain restrictions as to territory? A. Yes, sir.

Q. You have the same thing as with the John Deere Plow Company? A. I do not handle that.

Q. The same thing with the Acme? A. We have no restrictions.

Q. Before you sold them? A. We sold them to any one whenever he comes after them; if he came after them we could sell it to him.

Q. You did not inquire where he lived? A. If he came after it we would sell it to him.

Q. You have been fighting for the Acme people, contending for them? A. Yes, sir; the last few years we have.

Q. And you are now? A. Yes, sir.

Q. In 1907 and 1908 and now? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. You were fighting for them at the very time you were selling the America Company goods? A. We showed the people the difference.

Q. You were fighting for the Acme people? A. Yes, sir.

## DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. Before the merger when the companies representative came down, and in competition with the other companies when you sold the machine in addition to the freight, would they not allow you any reduction on the list price? A. No, sir; we had to settle with them on whatever their contract price called.

Q. Because they themselves had made the price to you, that is with the America Company, the International Harvester Company of America, that is the reason you maintained that price? A. Yes, sir.

Q. And you carried out what the price was to the letter? A. Yes, sir.

Q. And was informed never to break that? A. Yes, sir.  
(Witness excused.)

WM. F. COLBY, of lawful age, being duly sworn, upon his oath testifies as follows:

## DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. State your name. A. Wm. F. Colby.

Q. Where do you live? A. Hamilton, Missouri.

Q. Caldwell county? A. Yes, sir.

Q. What is your business? A. I handle implements and wagons and hardware and lumber.

Q. How long have you been in that business? A. Incorporated in February, 1901; commenced with wagons and buggies; we had lumber several years previous to that.

Q. So you have been in business there a great many years? A. Yes, sir.

Q. Have you ever handled any of the goods of the International Harvester Company of America? A. In the year 1901 we commenced handling the McCormick goods.

Q. That is, you handled the McCormick binders? A. Yes, sir, and mower and rakes.

Q. You continued to handle them after the McCormick until the International Harvester Company of America was formed? A. Yes, sir.

Q. After it was formed, did that company give you the agency of any machine? A. I kept the McCormick.

Q. And continued to handle the McCormick until what time? A. 1907; the spring of 1908 they took it away from us.

Q. They took the McCormick machine away from you in 1908? A. Yes, sir.

Q. State to the court the circumstances in which they took the machine away from you. A. I think it was Mr. Bassitt that travels in our county; he made a settlement; I think it was in November, 1907,



when he came around to make a settlement; I asked him, I said, I understand we would not handle the McCormick machine next year? He said, he did not know. Along in the spring of 1908 he came over to check out the repairs that was there, and he wanted to sell me the McCormick mowers that we had on hand. I did not want them; he took them away and turned them over to Mr. Stewart, our competitor.

Q. What reason was given by the company or their agent why they did that? A. They would not give any reason for it.

Q. Now, during the season of 1907, when you were selling these manchines first stated to the court, if they gave you the prices at which the machine should be sold? A. We had a contract; they gave the selling price and the cash price and the time price and the cash price to the dealer.

Q. The price you gave to the customer, was that fixed by the company? A. Yes, sir; supposed to be.

Q. The agents would tell you the price? A. Yes, sir.

Q. And that is the price you should sell? A. No, sir; we done different from most of the dealers; we did not sell mowers or binders, anything of that line, for time account; I sold for cash; I took no time long loans; I sold at whatever price I wished; at the same time, I was anxious to try to make the contract price.

Q. The agent of the company cautioned you? A. Yes, sir.

Q. Do you remember his name? A. I think Bassett.

Q. During the year 1907, with reference to the prices which the company gave you, did you maintain that price or cut it? A. I cut it.

Q. What did the block man say when he came around to see you? A. Well, he demurred considerably at the cutting of the price.

Q. He objected to you cutting the price? A. Yes, sir.

Q. Did you continue to cut the price or carry out their instructions as to the uniform price? A. No, sir; I cut the price; if a man came from a neighboring town, if I could get his trade, I did it.

Q. You cut the price to suit yourself? A. Yes, sir.

Q. At the close of the season, did this agent or block man come to you about cutting the prices on more than one occasion? A. Several times he spoke to us about it.

Q. He spoke to you several times about cutting the prices? A. Yes, sir.

Q. And that was in the season of 1907? A. Yes, sir, and before that; they had a man at Chillicothe and had a solicitor; he was changed from our territory; I could not say what years.

Q. Bassitt did in 1906 and 1907? A. I could not say whether it was 1905.

Q. At the close of the season you cut the price, the company took the agency away from you? A. Yes, sir; in the spring of 1908, without any intimation, they came down one day and said they wanted to take the stuff out.

Q. In talking to Bassitt in the fall of 1907 you said you had understood you were not to get the agency next year, how did you get that information? A. From different traveling men.

Q. Representing the respondent? A. No, sir.

Q. Now, the first you knew of it and your company was concerned was when they came down to take them out? A. Yes, sir.

Q. You had paid them what you owed them? A. There was never a year that I did not overpay McCormick.

Q. They could not take it away from you on that? A. No sir; the last year they owed me \$67.00, and very seldom a year they did not. I tried to keep the account with our repairs we sold; it was a very hard matter, and I had overpaid them, and it was the case every year that there would be a small balance due us.

Q. Prior to the formation of the International Harvester Company of America the competition existing between the various companies resulted in the cutting of the prices of all agents? A. They did at our place.

Q. And the companies themselves would give you help; they helped you at various times? A. No, sir; I could not say they did.

Q. You could not say the independent companies did? A. No, sir.

Q. At least the prices were cut? A. Yes, sir.

Q. The custom of the agents of the International Harvester Company of America, as you learned it, was to maintain a uniform price on their six machines? A. Yes, sir.

Q. In fact, the block agent has told you so? A. Yes, sir.

Q. On this same McCormick machine, before the formation of the International Harvester Company of America, you also cut your price then? A. Yes, sir.

Q. You never heard any complaint from them? A. No, sir; these men from Chicago never made any complaint to us.

Q. The first complaint you heard was after the formation of the International Harvester Company of America? A. Yes, sir; this man Bassett.

Q. And he was their block agent? A. Yes, sir.

#### CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. When did you start in business, I mean in handling mowers and binders? A. I think 1901.

Q. You yourself have always sold at the prices you wanted to? A. Yes, sir.

Q. You did in 1901? A. Yes, sir.

Q. In 1902, 1903, 1904, 1905, 1906, 1907? A. Yes, sir.

Q. In other words, you fixed your prices to the farmer selling for cash at what you could make the sale for? A. Yes, sir.

Q. You handled the McCormick continuously from 1901 to 1907? A. From 1901 to 1907.

Q. You cut the price during all these years whenever in your judgment you saw fit so to do? A. Yes, sir.

Q. That is right? A. Yes, sir.

Q. Now, when was the first time that you ever had any complaint made to you about that fact? A. It was the first year Mr. Bassett called on us.

Q. When was that? A. I could not say whether it was 1905 or 1906.

Q. It may be 1906? A. Yes, sir.

Q. You think it was 1905 or 1906? A. Yes sir; I don't know what time he commenced traveling there.

Q. It was either in 1905 or 1906? A. Yes, sir.

Q. From 1901 to 1905 or 1906 there had never been any complaint? A. These men from Chicago had never made any complaint.

Q. You sold and cut as you liked? A. Yes, sir.

Q. When Mr. Bassett came in 1905 or 1906 he began to complain? A. Yes, sir.

Q. Did he not tell you, Mr. Colby, that the agents around were complaining that you were demoralizing the business. A. I cannot say he did.

Q. Did he not tell you that? A. No, sir.

Q. It was not an instance of a single cut, but the general business that you were in that was demoralizing the business? A. The neighboring towns were cutting prices and coming to our territory.

Q. On these same machines. A. We heard of it, and Bassett claimed that we were selling straight prices.

Q. But, as a matter of fact, you knew that the agents around you were selling at whatever they wanted to? A. No, sir; I could not say that; Mr. Stewart would give twine.

Q. What machine did he handle? A. He had the Deering.

Q. There is not difference in giving twine and making a concession in money, twine represents money? A. Yes, sir.

Q. There is not a particle of difference in principle? A. One is about the same as the other.

Q. When you say Mr. Bassett in the fall of 1907 things had gone along so that you were so conscious of the circumstances that you introduced the topic with him, you said you did not think you were going to be their agent? A. I said I heard he was going to take it away from me.

Q. And he said he did not know anything about it? A. Yes, sir.

Q. The next year your contract was not taken away, it was not renewed? A. No, sir.

Q. No contract was terminated? A. No, sir.

Q. Your contract was not renewed? A. I would not be positive.

Q. As you think of it, was there not a failure to renew? A. No, sir; I think I signed up in 1907, and the spring of 1908, the first intimation I had, he came and said he wanted to check our stuff out.

Q. When did that 1907 contract expire? A. At the end of 1907.

Q. You did not sign any contract for 1908? A. I think I did.

Q. You have that contract? A. No, sir; when we ended our business up the literature was turned over.

Q. You are positive about signing the contract for 1908? A. I am as positive of it as I am going to eat my dinner.

Q. When did you sign that contract? A. At the time of settlement.

Q. In the spring of 1908? A. No, sir; in 1907, when he came round and settled with me; they always make out the contract for the following year at the time of settlement.

Q. That is about when, the fall? A. Yes, sir.

Q. In the fall of 1907 it is your impression that you signed up the contract for 1908? A. Yes, sir.

Q. And that in the spring of 1908 your goods were taken away? A. Yes, sir.

Q. Did you make any opposition? A. No, sir.

Q. You did not care? A. No, sir.

Q. It did not make any difference to you? A. I thought it was pretty small piece of business.

Q. You made no objections? A. How could I?

Q. You had the contract? A. Yes, sir; I had the contract.

Q. Did you sign up that contract for 1908 before or after you had this conversation with Mr. Bassett? A. I signed that at the time of settlement, 1907; the conversation I had with him was after that.

Q. When? A. I could not give the date.

Q. What year? A. 1907.

Q. And when you said to Bassett that you understood you were not to represent them next year, you had already in your pocket a signed contract for 1908? A. Yes sir; I think so.

Q. That is your recollection of it? A. Yes, sir.

#### RE-DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. Has the independent company any agent in your town handling their line of goods? A. No, sir.

Q. In your town there is no agency save and except those handling the International Harvester Company of America goods. A. The International Harvester Company of America agent has an Acme mower they have had on the floor for two or three seasons; I have understood that the International Harvester Company of America bought it for them or shipped it to them; of course, I cannot say that so.

Q. Now, in other towns that you spoke of a while ago, where prices were cut, do you know whether or not the independent companies have agents at these towns? A. As to Gallatin and Lathrop I could not tell you, and I think Weston.

Q. As to whether the independent companies have agents there you don't know? A. No, sir.

Q. At the time you were cutting their prices they did not have any in your town? A. No, sir.

## RE-CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. Do you not sell any machines now? A. You bet.

Q. I thought you said there was no agency in your town? A. How did I understand your question? I am selling Acme harvesters, mowers and binders; I took the agency for them last year.

Q. Anybody selling the International Harvester Company of America goods in your town? A. Yes, sir; Mr. E. C. Stewart.

Q. Both machines are being sold in your town? A. The McCormick, I judge, was turned over to Mr. Stewart.

Q. How many machines did you sell in 1907? A. I think we sold one binder.

Q. 1906? A. I could not tell you.

Q. Was it more or less? A. I would not say.

Q. It was not very much less? A. No, sir; could not be very much less.

Q. What is your average sale? A. We have had a black eye on the binders?

Q. How long? A. Ever since we had them.

Q. Prior to 1908, for three or four years, you only sold two or three machines a year? A. That is all.

Q. How many Acme did you sell last year? A. Four.

Q. How many did you sell in 1907? A. I had none then.

Q. 1908 your first year? A. Yes, sir.

Q. Who told you the International Harvester Company of America bought the Acme mower? A. I could not tell; I understood that.

Q. How did you understand it? A. By some one telling me.

Q. Do you remember when it was told to you? A. This last fall.

Q. Do you remember where? A. In Hamilton.

Q. Do you remember where? A. At our store.

Q. Who was it told you? A. I do not remember that.

## RE-RE-DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. Do you know whether or not the people that had that Acme made any efforts to sell it? A. They sold it; I sent a man there twice to buy it and it was already sold; they claimed it was sold.

Q. It always stood on the floor? A. Yes, sir.

Q. Never left the office? A. No, sir.

Q. They never made any efforts to get another or sell another? A. No, sir.

Q. Did you sell any mowers during the same year, the years you sold the International Harvester Company of America? A. Yes, sir; I sold a great many mowers.

Q. That was the line along with the McCormick binders? A. Yes, sir.

## RE-CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. How many mowers? A. I could not tell you; I have not the figures with me.

Q. Five? A. Yes, sir; and some years near twelve.

Q. That your top year? A. I don't know; I have not the figures with me; I could not tell you how many mowers I sold.

Q. Or how many less? A. No, sir.

Q. Or how many in 1907? A. No, sir; I have not anything of the International Harvester Company literature on hand.

Q. You have no returned list? A. No, sir.

## RE-DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. After you took the Acme, did the International Harvester Company of America send additional agents to your field? A. Yes, sir; they had a big force there.

Q. They sent more agents? A. Yes, sir; that is my understanding; they had some there a great deal of the time.

Q. Competition became stronger when you took the Acme? A. Yes, sir.

Q. And is stronger today? A. Yes, sir.

## RE-CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. How much stronger is it there today than before? A. Last year they had a block man there a great deal of the time; Bassett was there a great deal of the time.

Q. He is a block man that has a great many counties? A. Yes, sir; and it is my understanding—

Q. I want to know what you know. A. I could not swear that Bassett was there all the time, but I think he had help there.

Q. Whom did he have? A. I could not give you the name.

Q. Do you know the men? A. No, sir; I could not give you the name.

Q. Can you describe him? A. Yes, sir; I know the man was here.

Q. Constantly? A. I would not say constantly; he was there a great deal of the time.

Q. You saw the man there from time to time that you understood presented the International Harvester Company of America? A. Yes, sir.

Q. Bassett came there frequently when you handled it? A. He talked on us but not as to equal on our competitors.



Q. How did he call on your competitors? A. Every other two or three weeks, and has been doing that for two or three years.

Q. Was about the same in 1906 and 1907? A. Yes, sir; the same. (Witness excused.)

SILAS L. HEATH, of lawful age, being duly sworn, upon his oath testified as follows:

DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. State your name. A. Silas L. Heath.

Q. You reside where? A. Warsaw, Benton county.

Q. What is your business? A. Implement and hardware.

Q. How long have you been in that business? A. Five years.

Q. During that time have you handled any of the machines or goods of the International Harvester Company of America? A. Yes, sir; I have.

Q. During what years? A. 1904, 1905 and 1906.

Q. During the years 1904, 1905 and 1906? A. Yes, sir.

Q. State to the court the circumstances and why you quit handling their goods, if you did quit. A. I felt there was more money with the other goods; I got more money and liked the machine as well.

Q. The International Harvester Company of America is selling their machines, will you state to the court what, if anything, they did or said in reference to fixing the prices at which you should sell? A. I don't know as they said anything about the prices; it was understood all over the country they got a certain price.

Q. Did they sell all their machines at the same price? A. Yes, sir; as far as I know.

Q. And they made no cut in the prices in the sale of their machine? A. No, sir; unless it was an old binder carried over; they made some reduction then.

Q. What was the practice before the merger as to their cutting prices? A. I don't know anything about that.

Q. State to the court what, if anything, their International Harvester Company of America agents said to you in reference to dropping other lines of goods and carrying their lines alone in all things they sold. A. They seemed to want me to carry their lines alone.

Q. What particular lines did they ask you to drop? A. They wanted me to drop the Acme.

Q. And what did they say they would do if you did not drop the Acme? A. They said they would make it hard for me.

Q. What did they say about taking their agency away from you? A. I had already turned it down.

Q. They came to you and wanted you to take their agency and turn the Acme down? A. Yes, sir.

Q. And said if you did not they would make it hard for you?

A. Yes, sir.

Q. Did they put extra agents in your field? A. Yes, sir.

Q. And did they put an agent in your town? A. Already had one.

Q. When they came to you you were already handling the Acme?

A. Yes, sir; they came to me again and wanted me to contract; I would not do it.

Q. You had handled their line before that? A. Yes, sir; for three years.

Q. What machine did you handle? A. The McCormick and Champion.

Q. Did you sell their machines at uniform prices. A. Whatever I wanted to.

Q. As a matter of fact, did you cut the price? A. Yes, sir; I had done so.

Q. Did the company know you had cut the price? A. I suppose they did.

Q. Did they say anything about it? A. No, sir; only they said the other dealers were kicking because I was cutting the price.

Q. They said the other dealers were kicking because you were cutting the price? A. Yes, sir.

Q. While you had their agency they wanted you to drop the manure spreaders and get it from them? A. Yes, sir.

Q. And wanted you to get wagons from them? A. Yes, sir.

Q. And wanted you to get their line generally from them? A. Yes, sir; as much as possible.

Q. Did that have anything to do with your ceasing to buy goods from them or take goods from them? A. That was the cause of it.

Q. Because they were continually after you to handle their line alone? A. Yes sir.

Q. After you dropped that and took up the Acme they came back and asked you to drop the Acme? A. Yes, sir.

Q. And wanted to put the machine back with you? A. Yes, sir.

Q. And at that time you were the only man handling the independent machines in your town? A. Yes, sir.

#### CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. What machines are handled at your town now? A. Deering and McCormick principally.

Q. You handle what? A. Acme and had one Johnston on the floor; I have not been pushing it.

Q. You carry the Acme and Johnston? A. Yes, sir.

Q. And the McCormick and Deering is handled up there? A. Yes, sir.

Q. You took the Acme in 1907? A. Yes, sir.

Q. And prior to that time had the McCormick and Champion?

A. Yes, sir.

Q. And you dropped it because you thought there was more money in the others? A. Yes, sir.

Q. You did it yourself? A. Yes, sir.

Q. You were not forced to do it? A. No, sir.

Q. Since you handled the McCormick and Champion they tried to get you to buy more and more? A. Yes, sir.

Q. To handle more and more? A. Yes, sir.

Q. Are there any more outside assistance in Warsaw now than in 1906? A. Was in 1907; I don't know about this year.

Q. How much more? A. Two outside.

Q. Were they there all the time? A. No, sir; they were there once or twice a week.

Q. When you took up the Acme they brought in two more men? A. Yes, sir; they came in one train and got out on the other.

Q. The conditions now are about the same as in 1906? A. Yes, sir; about the same thing.

(Witness excused.)

G. A. DENNISON, of lawful age, being duly sworn, upon his oath testifies as follows:

#### DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. State your name. A. C. A. Dennison.

Q. You live at St. Louis? A. Yes, sir.

Q. What is your business? A. Manager of the local branch of the Johnston Company.

Q. What territory in Missouri have you? A. All of the territory with the exception of the northwest part of the State.

Q. Do you know the number of counties in your territory? A. No, sir; not exactly.

Q. How many agents have you in your territory? A. About 120; 115 to 120.

Q. Have you canvassers in addition to them or that include all your block agents and so on? A. That includes the agents that handles our goods, not our salaried men.

Q. How many block men have you? A. We have three under my jurisdiction; do you want me to speak of Kansas City or the State?

Q. How many agents have you in the Kansas City district? A. That is an estimate; I should judge 25 or 30; I should judge so.

Q. Making a total in this State of something like 150? A. In that neighborhood.

Q. How many canvassers or solicitors have you in this State? A. We have, to my knowledge, five at this time.

Q. That is in both districts? A. That is in my territory.

Q. Do you know how many they have in the other territory? A. No, sir; I do not.

Q. Do you know about the other territory if they have as many as in your territory? A. They have not as many.

## CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. How many general agents of the Johnston are there in Missouri? A. We estimate about 150.

Q. That is local agents? A. Yes, sir.

Q. That handles the machines? A. Yes, sir.

Q. How many general agents in Missouri? A. Only one at St. Louis.

Q. Is the State divided up in districts? A. It is divided between Kansas City and St. Louis.

Q. One hundred and fifteen or 120 local agents in what you call the St. Louis district and 25 or 30 in the Kansas City districts? A. I should judge so; I am estimating about Kansas City.

Q. How long has it been since the Johnston came into the State with binders and mowers? A. In our St. Louis district in 1905.

Q. Your St. Louis district is the larger? A. Yes, sir.

Q. Had they been there before they were in the Kansas City district? A. Yes, sir.

Q. How much before? A. They have sold goods there possibly two or three years before; two or three years, I should judge.

Q. In Kansas City district they sold goods since 1903? A. Yes, sir.

Q. You have charge of the St. Louis district? A. Yes, sir.

Q. How long? A. Since last January.

Q. Who was there before you. A. L. L. Milks was agent before me in St. Louis.

Q. You are familiar with the St. Louis district? A. Yes, sir.

Q. I judge they thought it a very good field to enter or they would not have entered it? A. Yes, sir.

Q. Since that time it has grown well? A. Yes, sir; and business is increasing.

Q. Business is very much better there than in 1902? A. Yes, sir; did not have any there then.

Q. You had some in Kansas City in 1903? A. Yes, sir; three or four.

Q. The Johnston people are looking for a field in which to enter that field is a good one to enter? A. Yes, sir.

## RE-DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. Then in 1902 the International Harvester Company of America absorbed practically all the companies that were doing business in Missouri? A. Yes, sir; a majority of them.

Q. What company was doing business in Missouri in 1902 excepting the ones the International Harvester Company of America absorbed? A. I would not consider there was any of any consequence.

Q. Practically none? A. No, sir.

## RE-CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. You cover the whole State of Missouri with your agents? A. I do not.

Q. I mean with the Kansas City and St. Louis districts? A. Yes, sir.

(Witness excused.)

E. B. CAMPBELL, of lawful age, being duly sworn, upon his oath testifies as follows:

## DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. State your name? A. E. B. Campbell.

Q. You were in business at Auxvasse, Missouri, Callaway county? A. Yes, sir.

Q. What character of business were you in there? A. In the implement and buggies.

Q. You were in business at Auxvasse until what time? A. First of last year, seven years.

Q. Did you handle any of the goods of the International Harvester Company of America at that point? A. Yes, sir.

Q. You handled them up until what time? A. I guess we quit in the fall of 1906.

Q. I will ask you to state to the court the occasion of your ceasing to handle the International Harvester Company of America goods, if that is a fact. A. Well I could not sell any more.

Q. What was the occasion? A. The reason they would not sell me.

Q. Was it because of any independent machine? State what was the occasion of your ceasing to handle their goods, because of handling independent machines? A. That is the reason they gave me, because I had an independent line.

Q. State what independent line you had. A. I had at that time six standard mowers; I think five or six.

Q. They would not sell you others unless you let the independent go? A. They would not write me a contract.

Q. Unless you would let them go? A. Yes, sir.

## CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. Who makes the Standard mowers? A. The Emmerson Manufacturing Company.

Q. When did you start to handle goods for the International Harvester Company of America? A. I handled goods before they organized.

Q. What goods? A. I sold the Deering.

Q. You handled that continuously? A. I handled through the season of 1906.

Q. You finished the season of 1906? A. Yes, sir.

Q. How many did you handle each year? A. That would depend on conditions; I think one year I did not sell but two or three.

Q. That was in 1906? A. No, sir; before that.

Q. How many did you sell in 1906? A. I don't know.

Q. Did you sell more than two or three? A. My impression is we sold six or seven grain binders and ten corn binders; I would not say for sure, but I think that is what it was; 6 or 7 grain binders and 10 corn harvesters.

Q. Did you handle the Johnston with the Deering in 1906? A. No, sir.

Q. When did you start to take on the Johnston? A. 1907.

Q. It is during all the time you were handling the International Harvester Company of America goods you were handling no other goods? A. No sir; I will say this, I contracted with these Standard mowers before my contract for the International Harvester Company of America expired, but never sold any goods; that was for the next season.

Q. Your contract with the International Harvester Company of America was never terminated; they never gave you a contract for 1907? A. Yes, sir.

Q. You finished out your 1906 contract? A. Yes, sir.

Q. And in 1907 you made a contract for 1907? A. Yes, sir.

Q. And the International Harvester Company of America made no contract with you for 1908? A. No, sir.

Q. They made a contract with another man in your town? A. No, sir; they already had two.

Q. Who handles the Deering in your town? A. Not handled at all; there is a McCormick agency there; I don't know as he handles that.

Q. When you ceased handling the Deering there was no one that handled that there? A. That is my understanding of it.

Q. You, as a matter of fact, have sold out your business and moved away? A. Yes, sir.

Q. Where do you live now? A. Mexico.

Q. When did you sell out your business. A. I gave possession the first of January, 1908.

Q. How long had you been arranging to sell out before you sold out? A. I made the deal a little over sixty days before, but did not turn over the stuff until the first of January, 1908.

Q. You delivered possession of the goods about what time in 1908? A. 1908, the first of January, 1908.

Q. And sixty days before that you commenced your negotiation to sell out? A. I had not began; I simply made a trade for a farm.

Q. About sixty days before that? A. Yes, sir.

Q. You could not have represented any company there in 1908?  
A. Why? Where?

Q. In this unpronounceable name, this deal was made the first of November, 1907? A. Yes, sir; the time they refused to make the contract with me was in 1906; the year before that, you see, I went through the season down possibly through the season on 1907.

Q. You handled the Standard in 1907? A. Yes, sir.

RE-DIRECT EXAMINATION.

By Hon. E. W. Major:

Q. And the only reason they did not renew for 1907 was because you had contracted for the Standard? A. Yes, sir.

RE-CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. You don't know what their reasons were? A. The reasons they gave me.

Q. Who gave you that reason? A. The block man.

Q. Who is he? A. Mr. White.

Q. Mr. White is the block man? A. Yes, sir.

Q. You and Mr. White had some difficulty over a gasoline engine?  
A. Not up to that time.

Q. When did you have it? A. Never had any quarrel; there was a little difference after all this occurred.

Q. When was that? A. About last September, about a year after I had gone out of business.

(Witness excused.)

At this point a recess was taken until 2:15 p. m. by order of Hon. Theo. Brace, Commissioner in the above entitled cause.

C. E. DENNISON, recalled for further cross-examination on behalf of the respondent.

CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. Mr. Dennison, what proportion, in your judgment, of the harvester business is done in Missouri by the Johnston people and the Acme and the Walter A. Wood people? A. That is, in the State?

Q. In Missouri. A. Well, the best I can guess on it, at something like 25 to 35 per cent.

Q. From 25 to 35 per cent? What proportion of the business in Missouri do they do in regard to mowers? A. Well, I would not be—my opinion would not be very good on that; I was not here last year; I don't know; I suppose it would be something like the same proportion.

Q. You represent the Johnston Company? A. Yes, sir.

Q. Did you raise the price on your harvesters in 1908 for the sea-



son of 1908? A. There had been some increase in price, now I—simply all I know is by the records.

Q. Just the records of your company? A. Yes, sir.

Q. During the time of the increase in price the raw material naturally had some increase in the machines, that would increase in price, the machines about five per cent. on the net cash price? A. On that basis.

Q. How as to cost of material that went into the machine or rather what is the reason of the increase in price? A. Increase of the price of raw material.

#### DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. Was there not a material decrease in the price of raw material in the fall of 1907 and 1908? A. I do not think I could answer that intelligently because in the fall of 1907 and 1908 in the spring of 1907 was the increase.

Q. Have you decreased your prices since that time, since you raised it? A. There has not been any change I know of.

Q. It is a fact in the fall of 1907 and during the year 1908 this raw material decreased in value considerably, iron and steel? A. Yes, sir; it declined.

Q. Did it not decline as much during the fall of 1907 and the year 1908 as it had increased during the five or six years immediately prior to that time? A. Not quite as much, I do not believe.

Q. You really do not know? A. No, sir; the best information I have is not quite as much.

Q. How long have you been in Missouri in connection with the Johnston Company? A. Since the first of January.

Q. On what do you base your judgment that these companies do 25 to 35 per cent.? A. From going over my accounts and what I can get from my own reports.

Q. You are not in any position to get anything like an estimate of the per cent. done by these companies as compared with the International Harvester Company of America? A. No position only my own estimates are drawn from my own conclusions.

Q. How many years prior to this year have you been out of Missouri? A. Six years.

Q. Then your information as to the business done in this State has been acquired since the first January this year? A. Yes, sir.

(Witness excused.)

H. M. BRYAN, of lawful age, being duly sworn, upon his oath testifies as follows:

## DIRECT EXAMINATION.

Q. State your name? A. H. M. Bryan.

Q. Where do you live? A. Fayette, Howard county.

Q. What business are you engaged in? A. Hardware and implement.

Q. In connection with that business do you handle mowers, binders and manure spreaders? A. We do.

Q. How long have you handled that line of machinery? A. We have only been in the business over two years.

Q. You are now representing what company, what machine company binders and mowers? A. International Harvester and Deering.

Q. Who is the block agent in your territory for the International Harvester Company of America? A. I think it is Mr. Howe, Frank Howe is the general agent.

Q. He is the man that you make the contracts with? A. Yes, sir; through him.

Q. Was he down to see you about contracting or making some sales or shipments to you about three months ago? A. Every three weeks he comes along.

Q. At that time what line of wagons and manure spreaders were you handling? A. The Columbus and Weber wagon.

Q. Who makes the Columbus? A. The International Harvester Company of New Jersey.

Q. The International Harvester Company of New Jersey makes the Weber too? A. Yes, sir.

Q. Who makes the other wagons? A. We have no other wagons.

Q. You are not handling anything in the wagon line except the International Harvester of America goods? A. No, sir.

Q. Were you at that time? A. No, sir.

Q. You had figured on handling other lines of wagons and manure spreaders? A. In the manure spreads we have the Great Western.

Q. Who manufactures that? A. The Smith manufactures that one.

Q. Were you not figuring on handling some independent wagon when he was there about three weeks ago? A. Yes, sir.

Q. What did this agent say to you about it, about your buying your wagons from some independent company? A. Well, he asked me in making up a car of binders and mowers he wanted to include some wagons in it, I told him we had about decided not to handle the International Harvester wagons; we had very poor success in handling them, we thought that we would let these wagons out.

Q. What did he say? A. Well, he said that we had put in another manure spreader and cream separators and were now cutting out the wagons and he thought that was dividing their business up too much, and they would rather not have it that way.

Q. What did he say to you if you handled their line, you had to handle their entire line? A. Nothing said about handling the entire line.

Q. What did he say to you if you continued to handle their mowers and binders, that you would have to handle their manure spreaders and wagons? A. He left me there what he said if I did not take their wagon, in fact he said if I did not take their binders and their wagons that they would, that lots of people were anxious to take their stuff, and they could get some one that would handle it all.

Q. You then wrote a letter to your partner who is here at Jefferson City about what he told you? A. Yes, sir.

Q. That is Mr. Blakey, chief clerk in the Auditor's office? A. Yes, sir.

Q. You then received a letter from Mr. Blakey that had been written him by Mr. Funston? A. Yes, sir.

Q. In which Mr. Funston said he would not require you to do that? A. Yes, sir.

Q. To do what? A. Handle their line of wagons.

Q. That was afterward, after you had taken the matter up with Mr. Blakey? A. Yes, sir.

Q. You have continued to handle their wagons? A. We have not bought any more wagons, it is just the line we had previously bought, a line we already had on hands.

Cross-examination waived, by Hon. Selden P. Spencer.

(Witness excused.)

Hon. Charles G. Revelle, counsel for the State:

This is all the testimony we will offer at this time.

In pursuance to the request of Hon. Elliott W. Major, Attorney-General for the State of Missouri, and counsel for informant in the above entitled cause, the following paper was prepared by the witness, A. I. Dougherty and forwarded by him to be attached to his testimony by consent of the respective parties in the above entitled cause and order of Hon. Theodore Brace, Commissioner.

Said paper being a list showing advance on articles listed below from year of 1904, and 1905 to 1906, at Springfield, Missouri, General Agency. Said paper being introduced on behalf of the State of Missouri, informant, by its counsel, Hon. E. W. Major, Attorney-General, and here appears in words and figures as follows, to wit:

**LIST SHOWING ADVANCE ON ARTICLES LISTED BELOW  
FROM YEAR OF 1904 AND 1905 TO 1908, at SPRING-  
FIELD, MO. GENERAL AGENCY.**

	1904.	1905.	1908.	Per cent of Advance
6 ft. Grain Binder with B. C.....	95.00	.....	100.00	5-1.3%
Corn Binder.....	95.00	.....	100.00	5-1.3%
4-Roll Husker and Shredder.....	175.00	.....	187.63	7-1.5%
5 ft. Reaper.....	50.00	.....	52.71	5-1.5%
5 ft. Regular Mower.....	34.00	.....	35.85	5-2.5%
Sickle Grinders.....	2.50	.....	3.00	20%
Swinging Stacker.....	34.20	.....	41.85	20-1.3%
2-Wheel Sweep Rake.....	11.40	.....	15.35	34-1.2%
12-16 Disc Harrow.....	.....	19.50	20.50	5%
60 Tooth 1-2" Peg Harrow.....	.....	19.00	9.50	5-1.2%
3" Weber Wagon.....	58.85	.....	73.07	24-1.5%
Swath & Windrow Hay Loader.....	.....	45.00	51.15	13-2.3%
3-Bar Side Delivery Rake.....	.....	40.50	44.64	10-1.5%
8-H. P. Stationary Engines.....	.....	285.00	302.25	6%
10-H. P. Stationary Engines.....	.....	356.25	381.50	6%
12-H. P. Stationary Engines.....	.....	403.75	432.45	7%
15-H. P. Stationary Engines.....	.....	451.25	511.60	13-1.3%

Hon. Elliott W. Major, Attorney-General of the State of Missouri:

There has been an agreement, your Honor, to take the evidence of George W. Perkins, who formed the deal in New York City. Would the court desire to go to New York City to take the evidence?

Hon. Theo. Brace, Commissioner:

I would much prefer if you would take his deposition and file it with me.

Hon. Elliott W. Major, Attorney-General:

The 22nd of June, 1909, at the hour of 10 o'clock a. m. is the time set to take Mr. Perkins' evidence, and in order to get the record made we desire to enter a stipulation on the record here at this time.

Hon. Theo. Brace, Commissioner:

Dictate your stipulation to the stenographer.

#### STIPULATION.

It is stipulated and agreed that the testimony of Mr. George W. Perkins, on behalf of the State, may be taken in the City of New York, at his office 23 Wall street, before any notary public chosen by the State of Missouri, and that when written out in long hand may be filed in this proceeding with the same effect as if the testimony had been taken before the Special Commissioner at Jefferson City, Missouri, and be introduced and form a part of this record. The said evidence to be

taken on June 22nd, 1909, at 10 o'clock a. m. at Mr. Perkins' office, 23 Wall street, and in accordance with the stipulation above.

Hon. Theo. Brace, Commissioner:

It is hereby ordered that the taking of testimony in the above entitled cause, on behalf of the informant, be adjourned to meet in Jefferson City, Missouri, at 10 o'clock a. m. July 12th, 1909, in the court room of Division number two, Supreme Court of the State of Missouri.

July 12, 1909, Jefferson City, Missouri.

Be it remembered, That the following proceedings were had before Hon. Theodore Brace, Commissioner in the above entitled cause on Monday, July 12th, 1909, the same being the date set for the further taking of testimony on behalf of the informant in the above entitled cause.

Hon. Elliott W. Major, Attorney-General of the State of Missouri, and Hon. Charles G. Revelle, Assistant Attorney-General, appearing for and on behalf of the informant, the State of Missouri, in the above entitled cause.

Hon. Selden P. Spencer, appearing for and on behalf of the respondent, The International Harvester Company of America, in the above entitled cause.

Hon. Elliott W. Major, Attorney-General:

If the court please, we at this time desire to file the testimony of George W. Perkins on behalf of the informant, said evidence being taken in New York City on June 22nd, 1909, on behalf of the informant, and before Alexander Wotherspoon Taylor, notary public of said city and State, and under the foregoing stipulation made and entered into by and between the respective parties in the above entitled cause and entered of record in this cause.

Hon. Selden P. Spencer, counsel for respondent:

We have no objections to filing the same if it is understood that it is with the right of the respondent to suggest such corrections as from an examination of it we may care to suggest.

Hon. Elliott W. Major, Attorney-General of the State of Missouri, counsel for informant:

And for them to be passed upon by the Commissioner. There is no question to the evidence from the fact that the notary has not certified to it, because under the stipulation the same does not have to be done.

Hon. Selden P. Spencer, counsel for respondent:

No, sir; we are not making any point on it not being certified.

Hon. Elliott W. Major, counsel for informant:

The evidence was taken by the official reporter that has taken all this evidence, and taken under the stipulation which provided it should be taken and inserted in this record the same as if it had been taken in Jefferson City, where it would not have had to be signed or certified to.

Hon. Theo. Brace, Commissioner:

I am marking it filed as of date July 12th, 1909, and made a part

of the record. Of course if you desire you may suggest or make any suggestions as to any mistakes that may be found. I have read the same over, and beyond any typographical errors, I am satisfied it is as the witness stated.

Whereupon, Hon. Theodore Brace, Commissioner in the above entitled cause, marked the transcript of testimony of George W. Perkins taken on behalf of the informant in New York City by Hon. Elliott W. Major, Attorney-General, filed as follows: "Filed July 12th, 1909, Theodore Brace, Commissioner." And said evidence is here inserted into the record proper of the above entitled cause, in the words and figures as follows, to wit:

Pursuant to the stipulation heretofore made and entered into by and between the parties to this cause the testimony of George W. Perkins, was taken at his office, No. 23 Wall St., in the City of New York, State of New York, on June 22nd, 1909, at 10 o'clock a. m. before Alexander Wotherspoon Taylor, notary public of said city and state. There were present Attorney-General Major and Mr. Charles G. Revelle, representing the State of Missouri, and Messrs. Edgar A. Bancroft and Selden P. Spencer, representing the respondent.

It was stipulated and agreed that the testimony should be taken in short hand and thereafter transcribed on the typewriter and filed in the record, the same as if taken and given by the witness as though he were present in Jefferson City, Missouri, before Judge Theodore Brace, Special Commissioner in said cause.

GEORGE W. PERKINS, called on behalf of the informant, of lawful age, being duly sworn upon his oath, testifies as follows:

#### DIRECT EXAMINATION.

By Attorney-General E. W. Major:

Q. Please give your name, age and residence? A. George W. Perkins, age 46, residence New York City.

Q. You are a member of the firm of J. P. Morgan & Company? A. Yes, sir.

Q. What official position do you occupy in the International Harvester Company of New Jersey? A. I am a director and chairman of its finance committee.

Q. Are you a member of what is called its voting trust? A. I am.

Q. One of three? A. Yes, sir.

Q. Yourself, Mr. Charles Deering and Cyrus H. McCormick? A. Yes, sir.

Q. What official position, if any, do you hold with the International Harvester Company of America? A. I do not believe I hold any, I am not sure as to that.

Q. You are neither a director or an officer, you are not a director in that company? A. I think I am a director, am I not (asking Mr. Bancroft, attorney for respondent).

Mr. Bancroft, counsel for respondent:

Yes, you are.

Q. You are a director of the International Harvester Company of America? A. Yes, sir; I think I am. It is a matter of record anyway, but I could not swear as to that from my knowledge at the moment whether I am or not.

Q. Is there any way you can find out, I do not care to bother you.

Hon. Selden P. Spencer, counsel for respondent:

He is a director, it is admitted by the respondent.

Hon. E. W. Major, Attorney-General:

Then the record can show it as an admission?

Hon. Selden P. Spencer, counsel for respondent:

Yes, sir.

It is admitted that George W. Perkins, the witness on the stand, is a director in the International Harvester Company of America.

Q. In your business as a financial agent you promote large enterprises and the bringing together of vast financial interests in promoting that business, do you not? A. No, sir.

Q. About when did you first conceive the notion of bringing together the interests of the various manufacturers of harvesting machines in the United States? A. I do not think we ever conceived such an idea.

Q. I will ask you when you first conceived the idea of forming or bringing together into one concern the McCormick Harvester Machine Company, the Deering Harvester Machine Company, The Warder-Bushnell-Glessner Company, which manufactures the Champion machine, the Plano Harvesting Machine Company, and the D. M. Osborne Company? A. Well, several years ago, the records will have to show what year, I should think six or seven years ago.

Q. How did it come that you brought these interests together, at whose solicitation? A. No ones solicitation, it was our own idea as bankers.

Q. Well, with whom did you talk for the purpose of bringing them together? A. Well, I talked with a great many people.

Q. You know Cyrus H. McCormick? A. Yes, sir.

Q. Mr. McCormick came to see you in June, 1902, and talked over with you the enlargement of his business as a manufacturer of the harvester machines, didn't he? A. I could not testify as to the date. He did as a fact.

Q. Some time prior to the organization of the International Harvester Company? A. Oh, yes, sir.

Q. And in that conversation he detailed to you the fact of his and of there being the Warder-Bushnell-Glessner Company and the Deering Harvester Company and the Plano, that they were all engaged as independent concerns in the manufacture of harvesting machines? A. I do not recollect that, I have been familiar with the McCormick business from the time I was a school boy in Chicago, and often talked with Mr. McCormick about his business.

Q. When Mr. McCormick came to talk to you about his business



what did you say to him, what did you propose? A. We had a great many talks about his own business.

Q. What about his selling out or disposing of his business or placing it in some other concern? A. Well, Mr. McCormick never wanted to do that.

Q. Well, he did that? A. Well, he did do it; yes, sir.

Q. Who brought that about? A. I think I might say that I did.

Q. In other words, in addition to seeing Mr. McCormick you also saw Mr. Deering? A. Mr. Deering?

Q. Mr. Deering? A. Glessner, you mean.

Q. No, sir; Deering? Deering sold to, this is all prior to the formation of the International Harvester Company? A. Oh, yes, sir.

Q. You also saw Mr. Glessner? A. Yes, sir; about his own business. I think I saw Governor Bushnell because I had known Governor Bushnell quite intimately for a long while.

Q. But each one of the presidents, or managers, of each one of these concerns, you had a talk with them at separate times, about their own companies and business. You conceived an idea if each one sold their independent business and took stock out in the new proposition and which is now the International Harvester Company of New Jersey, that you could and would combine the chief harvester companies? A. The question of J. P. Morgan & Company becoming interested in the harvester business had been an interesting one to us as bankers for a great while. It had been particularly interesting to me because having been a boy in Chicago I was familiar with the development of that business and had great faith in its future. I knew not only the McCormicks but Governor Bushnell, and was watching the situation with a view of our finally being able as bankers in being interested in it some day. That is the beginning of my connection with the harvester business.

Q. And after Mr. McCormick came to see you and you having that idea in your mind, why he told you that competition between the various independent companies were quite fierce, did he not? A. The McCormicks consulted me about the condition of their business with a view of enlarging it, as I recollected and rounding out their company, that is, acquiring more lands and timber lands and all that sort of a thing.

Q. What I intended to call your attention to, was that in your first conversation that you had with Mr. McCormick, did he not inform you that the competition between the various independent companies with which his business came in contact was a fierce competition, was a strenuous competition? A. I don't know as he did, I knew it mighty well without his telling me.

Q. You knew that without his telling you? A. Yes, indeed.

Q. Take these various companies which I have just mentioned the Wood, the Glessner, the Plano and the Milwaukee Company, you knew as a matter of fact that they did a very large volume of business in the harvester machine line? A. Well, no particular company except the McCormick and the Deering, and the Warder-Bushnell-Glessner

Company had any special place in my mind I knew of their business as any well informed man did.

Q. You knew they did a volume of that line of business in the United States? A. I would not say that, I knew that they did a very good business, they had good organizations but there were a great many companies in the harvesting business of course.

Q. Outside of these five or six harvesting machine companies just named there were none outside of these that had any financial standing in the world to day? A. Naturally J. P. Morgan & Company were looking for the best.

Q. You felt in getting these concerns to join their interests you would be getting in fact all of the business in the United States? A. Not at all.

Q. At least you felt you were getting the best? A. We thought we would get the best for the purpose of investment in the staple branches of that business.

Q. Well, the managers of these various companies informed you that they would jointly do seventy-five or eighty or eighty-five per cent. of the business in the United States? A. No, sir; that never came up for discussion. That was not a factor, that is not what we were after or desirous of.

Q. When Mr. McCormick came to see you did you suggest to him the selling of his stock and taking stock back in the International Harvester Company of New Jersey? A. Well, now, the many years I have known Mr. McCormick he has come to see me many different times, I don't know what one you are referring to.

Q. Any visit prior to that time. I want to get at how did you bring about the formation of the International Harvester Company of New Jersey? A. We brought it about by buying these several different companies, making the best trade we could as bankers, from the people who had them, and then I formed the company.

Q. Well, after you saw Mr. McCormick, and you talked this matter over with him, did you have the managers of the other companies come to see you, the Deering and the Plano people? A. Yes, sir; I negotiated with each one just like any man would make a trade.

Q. Each one of them separately? A. Yes, sir.

Q. You finally got an agreement from them that they would transfer their properties to you? A. Yes, sir.

Q. Or to some one else? A. Yes, sir.

Q. I believe you used one Wm. Lane? A. Yes, sir; I believe we did.

Q. Mr. Lane did not furnish the money and pay that outright himself, he was simply a conduit through which the property passed?

A. Those are legal questions that I am not prepared to go into.

Q. That is not a legal question, that is a matter of fact. A. Yes, sir.

Q. Mr. Lane did not buy them with his own money? A. I made the trade, I was the one that made the trades.

Q. You had the transfer of the property come through Mr. Lane?

A. Yes, sir; I believe we did.

Q. And at the time these contracts, for instance, on the 28th of July, 1902, the contracts by and between the harvesting machines companies, the McCormick and the Deering and the Plano and the Warder-Bushnell and Glessner Company, at the time these contracts were signed, and for some days prior thereto, these various companies knew that they were all going into the same general company which was the International Harvester Company of New Jersey? A. So far as I know, they did not. I was simply trading as a man who would have a horse that he wanted to buy, I was trading with each one of these people to buy their property on the best terms I could, believing if I bought them I could organize a company that would be a great advantage to the harvesting situation in this country and abroad.

Q. In buying from them you made them agree to take back stock in a new company in payment for their property? A. I did after I found out what I could buy the companies for, I then tried to pay them in the best corn I had to deliver.

Q. Finally, after the contracts were all signed, they were all present in the room together? A. I do not remember as to that.

Q. You had a separate contract with each concern, each business, that is, you had a contract with the McCormick Harvester Company and the Deering and the Plano and the Warder-Bushnell-Glessner and each contract was exactly alike the other, they were all alike? A. I don't know that I ever saw the contract. I did the trading.

Q. When Mr. McCormick came to see you about enlarging his business it was then you informed him or suggested to him that one general company be formed and whereby the independent properties would be taken up? A. Well, you see I had a great many talks, a great many with Mr. McCormick about his own business.

Q. Well, in any of your conversations prior to July 28th? A. Yes, sir; I tried to buy Mr. McCormick's property and succeeded, but my recollection is I was naturally very careful as to what I was going to do with the property after I got it. My first thing was to buy it.

Q. Well, in your contract with Mr. McCormick, and in your contract with the balance of these concerns you have had them to agree that they would transfer their properties to the purchasing company, so you were bound to have known that you were going to organize and that they were going to take stock in the new company, did you not? A. No, sir; when I first began to trade my first idea was to buy Mr. McCormick's property; I would have bought that property alone without anybody else if I could have.

Q. But what I mean is, at the time the contracts were signed and just prior thereto, you knew and they knew that a new concern was going to be formed out of their properties, and in which they would take stock? A. No, sir; we had decided to organize a company of our own.

Q. Well, in your contract what do you mean when you used the seventh paragraph thereof "the purchasing company shall have such

corporate title, capital stock, organization, by-laws, directors and committees as may be approved by J. P. Morgan & Company, etc." That was describing the contract that J. P. Morgan & Company were going to have as their company, so that when these various properties, that is, when Mr. McCormick and Glessner and Jones signed these contracts, they knew then there was going to be a new company formed by J. P. Morgan & Company prior to their signing the contracts?

A. At that point our trade had progressed to a point of our having to tell them whether they were going to get green backs or bank drafts or government bonds, or railroad stock, or a check of ours, we approached them to see if we could satisfy them in stock in a company which we were organizing in place of handing over greenbacks.

Q. So prior to forming the other company you did tell them?

A. Our trade progressed to a point where they accepted that stock in payment rather than a check of ours.

Q. You informed them of that fact, that they would take the stock in the new company to be formed in payment for their properties turned over prior to the date the contract was signed? A. I don't know as I can put it in any better shape, I don't know as you understand, it was a trade, for instance if you have a horse you want to sell, I may decide to buy it, I may give you \$100.00 for it, or a pig and a cow that I have. That is it, it was a trade. I may offer you what you ask. I might give you the hundred dollars, or as I say, I might give you what you would as soon have, my pig and my cow, which I value at \$100.00. It is all the same thing.

Q. Before the contract was signed you told them and they understood that they would be paid for their properties by accepting stock in the new company? A. The result of the trade was they accepted stock in the new company in lieu of cash.

Q. They knew that before they signed the contract? A. Why certainly.

Q. Now, then, after Mr. McCormick had a conversation with you at your office in June, 1902, and prior to the date the contracts were signed, which was July 28th, 1902, you secured an option on the Milwaukee Harvesting Machine Company, did you not? A. Those dates, I don't know about, I take it you are stating them as you do, of course, correctly, as to that I do not know.

Q. Prior to the signing of the contracts whereby these various companies transferred their properties to Mr. Lane, as a conduit to which would pass the title to the new company you had secured an option on the Milwaukee Harvesting Machine Company? A. Well, sometime in that neighborhood we secured an option on the Milwaukee Harvester Machine Company. That is, J. P. Morgan & Co. did.

Q. You had that prior to the time the contracts were signed? A. I do not remember.

Q. You had Mr. Middlecoff of Chicago to secure the option for you? A. I don't know, I believe we did.

Q. And all these physical properties of the various companies

were transferred to Lane and then to the International Harvester Company of New Jersey? Why did you not transfer the capital stock of the various companies? A. Of the various companies?

Q. Yes, sir. A. Well, we were buying the tangible assets. We bought the material, the factories, the property at an appraised value.

Q. You bought all that the stock represented? A. As to that I don't know, I never paid any attention to the stock at all, we simply traded on the basis of approved properties and buying them at their actual real value. That was a detail left to the lawyers to carry out themselves in preparing the papers and transfers indeed a very important factor.

Q. After you bought the companies? A. We had not.

Q. After you bought the other properties you knew what you purchased? A. That is what we tried to find out, what we purchased in the company.

Q. You purchased the good will? A. We paid not a dollar for the good will.

Q. They transferred all their contracts and all their plants and all their physical properties save and except their bills receivable? A. Yes, sir. We bought their real estate and factories on which the actual and real money value could be placed just like you would go about buying a house or a horse.

Q. That property was afterwards to be appraised by appraisers? A. Yes, sir.

Q. And the sellers of the various companies, of these five companies, they were willing to transfer their stock and afterwards ascertain what their property would be worth and transfer it to the company? A. My memory is, we bought one company and afterwards found out we could buy another and finally bought all. It was real and tangible, we found out what they had to sell, we agreed to pay them a hundred cents on the dollar after we did that, they were convinced that the stock in the new company was worth one hundred cents on the dollar.

Q. You first secured an option on each one of the five different companies about what you could buy their properties for? A. Yes, sir; I found out from each what I could buy each one of their properties for.

Q. You did not buy any until you bought them all? A. Yes, sir; I think we did.

Q. Which one did you buy? A. My impression is we bought the McCormick first; I made my trade, with them first. We found that we could buy that any way. We should have bought it anyway, even if we could not have got any of the others.

Q. You found out what you could buy them for? A. Yes, sir; our object, my first way back idea was to buy the McCormick property if we could get it.

Q. You say you had an idea way back, your first idea, was to buy the McCormicks. Did you approach Mr. McCormick or he approach you? A. I approached him.

Q. You approached him? Mr. McCormick did not come to see you about enlarging his business of his own concern? A. He had been coming to see about the business of his own concern in many respects, but the question of buying them, as the fellow said in the story, was purely my own idea.

Q. After you found out what figure you could buy the Plano and the Osborne, whatever the five names are of the companies, after you found out the price you could buy those you made a formal contract with them, you made a contract each on the same day? A. No, sir; that is not the way of it; things, especially in this country, grow and enlarge, and this idea as I got to working on it, enlarged, and it started with my desire to have the McCormick property, and it went on gradually from that; it did not start out with a great big idea, that we were going to do something big, we worked up to it as we found we could.

Q. Prior to July 28th, 1902, you had a contract or memoranda with each one of these various companies to buy these different companies? A. I don't know that.

Q. Except the Milwaukee? A. These dates do not mean anything to me.

Q. Did you have any other contract than the one signed on the 28th of July, 1902, with the McCormick Harvester Company or the Osborne or the Deering Company or the Plano Company? A. My memory is, I had various consultations with several of these gentlemen and knew by personal statements what I could do as I went on with my trade.

Q. You had not any contracts with them? A. I knew what I could do. I don't know whether you call a contract by word of mouth or pencil memoranda.

Q. Nothing bound you to buy them or Mr. Lane to buy them. There was no contract binding you to buy these independent companies, or Mr. Lane prior to July 28th, 1902? A. As I have said, that date don't mean anything to me, but I think I can answer your question. We bought the Milwaukee plant out and out, absolutely without any regard to what might happen to it. I think my recollection also is we had the McCormick business where we could have had it, and would have had it regardless of anything else except the Milwaukee and the McCormick properties.

Q. So you had the Milwaukee Company bought outright prior to signing these contracts? A. Excuse me from referring to it, the dates are out of my mind. My recollection is quite clear, we bought the Milwaukee plant out and out without regard to anybody else, and that we were practically in that attitude with the McCormick, although we had not paid for it.

Q. You had no contract with McCormick that would have either bound them or you? A. No, sir; not in writing, but that does not necessarily follow it was not a contract.

Q. When you bought the Milwaukee outright, did that include the stock in addition to the property? A. My impression is we bought that stock, bought the capital stock.

Q. Do you know as to that?

Hon. Selden P. Spencer, counsel for respondent:

That is right.

Q. Why did you take the capital stock in the Milwaukee Company and not take the capital stock in the other companies? A. From the information I gathered, I believed it was cheap and it was a bargain just like we buy bonds or stock any days, if we think it is a good investment.

Q. But in taking over their physical properties why did you take that capital stock and not take the capital stock along with the other companies when you took their physical properties? A. As I said, we traded with each one according to the best trade we could make for the particular property.

Q. Now so that I may clearly understand, had you bought the Milwaukee Company outright prior to the time that the contracts were signed by the McCormick Harvesting Machine Company, the Deering Harvesting Machine Company and the Plano, which was July 28th, 1902? A. My impression is as we talk at the minute we owned the Milwaukee Company six months prior.

Q. Did you own or have an option on it? A. My impression is that we owned it, if it was an option it was practically the same thing.

Q. When did you get your option on the company? A. I do not remember.

Q. You do not remember? A. No, sir.

Q. If you owned it six months you had your option of course prior to that time? A. That time; I do not remember.

Q. During the six months you owned the Milwaukee Machine Company, who operated it? A. I am not certain it was six months.

Q. Whatever time it was, who operated it? A. It was being operated; I cannot remember as to that.

Q. After you bought it, it was either operated by J. P. Morgan & Company or its agents? A. Yes, sir; naturally.

Q. Now you say you were acquainted with the harvesting machine business, having known Mr. McCormick when you were up in Chicago, you knew of the competition going on by and between these various different companies? A. Yes, sir.

Q. In forming the International Harvester Company of New Jersey, that would naturally eliminate these five or six companies from the competitive field, would it not? A. Well, not necessarily, five or six companies, maybe two or three companies.

Q. Whatever companies you bought, it would eliminate them? A. Yes, sir; that much less independent companies.

Q. That would be the purpose in bringing them together into one concern, would be to eliminate the five or six independent companies from the field? A. Well, I would not quite put it that way, perhaps I could make another statement that might help you. The situation as I had followed it for a number of years in the harvester business was an unusual one, very peculiar in the fact that the business had been crowded I felt beyond the limit in the matter of competition, resulting



in a demoralized business abroad, and what seemed to me a detriment to the farmers at home, and every once and a while of the increase of the prices at home. I felt that if we could go into the business with one or two or three good plants that our influence could stop that and prevent further advances in the prices and that we in our company could introduce other lines of business and this way provide a sales organization for such a company as could be employed the year around and thus save an immense amount of waste that was going on in what were called the strictly harvester companies where they were only selling two or three or four months in the year and remaining idle the rest of the time. My conception was of the company that would in this way be able to make a regular business at fair prices to American farmers, and not to use Europe as a dumping ground every once in a while, which I am thoroughly opposed to in any American enterprise, and give us a company that by the economies of an all the year round selling organization, would prevent the increase in the price of the output to the farmer and yet give us a good profit. I felt that J. P. Morgan's influence in the matter, if we could get into it, could accomplish it.

Q. In other words bringing the five companies into one governing power to control the prices? A. No, sir; not to get in five, but get into the business in a substantial way. It turned we got five.

Q. To bring the five into one governing power? A. That is what finally worked out, although that is not what we started out to do.

Q. That was the set purpose? A. No, sir; I have stated I wanted to get into the business in such a way that we could accomplish for America what I have outlined in my statement.

Q. And that, summed down, was instead of having five independent concerns—

Hon. A. E. Bancroft, counsel for respondent:

Objects to counsel for informant repeating a question, as the witness has already been asked and answered the question.

A. I would prefer to answer the question.

Q. The purpose, I gather from you, was to purchase the five and eliminate them from the field; when I say five, that means the number here, and that business would be controlled by one governing power; that is, the International Harvester Company of New Jersey? A. Well, now, Mr. Major, may I say this, it is perfectly natural that you should look at this standpoint of an accomplished fact; what I look at is what I started out to do.

Q. And if you could bring about an organization of the new company, this would exercise a restraining influence and adjust the unbusiness-like condition in which the independent companies you purchased found themselves at the time. A. I would think it more accurate to put it this way: that I believe that if J. P. Morgan & Company could get into the harvester business in a fairly substantial way that our influence would be potent enough to bring about the results that I have enumerated in my preceding statement.

Q. You say it would make a difference in prices in this country

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and foreign countries; were the prices of the articles cheaper in foreign countries than in America? A. They had been very irregular over there; I don't know whether if you ever looked over it you would find they have been no higher or lower in foreign countries, here and there, in which as one I have taken great pride, which in all lines has not been the case.

Q. The amount of capital stock of the International Harvester Company of New Jersey was \$120,000,000.00? A. Yes, sir.

Q. How was the \$120,000,000.00—what items composed the \$120,000,000.00 of stock? A. \$120,000,000.00 of cash.

Q. \$120,000,000.00 cash? A. You look as if you thought that was a great deal of money; yes, sir.

Q. Did not the physical properties of these five companies compose a part of the capital stock, or do you consider that as cash? A. I consider that as cash in the same sense as a bushel of wheat.

Q. What part of the \$120,000,000.00 of that cash did the physical properties of the companies you bought represent? A. I do not recollect; whatever the exact appraised value of the properties amounted to; approximately one-half.

Q. And the other one-half was represented by dollars and cents paid into the enterprise? A. Yes, sir; another kind of money.

Q. The idea I want to get at how much in cash, in money, was paid over and above the properties of these companies? A. I regarded it all as money. J. P. Morgan & Company are bankers and merchants; people sometimes confuse that. We are as much merchants as bankers.

Q. How much merchandise money went into the \$120,000,000.00? And how much cash? A. I think about half.

Q. Who put in the other half, or the \$60,000,000.00, which was actual money? A. I think we put in about \$20,000,000.00 and the people from whom we bought the property put in about 35 or 40; I could not testify as to that.

Q. The people from whom you bought their physical properties, these different companies, in addition to transferring their physical properties, also put in about \$40,000,000.00 in cash? A. Something like that I should think.

Q. So you started in the business with the physical properties of these five companies and \$60,000,000.00 in cash? A. Yes, sir; just about.

Q. The first company you purchased after you started the business was the D. M. Osborne Company? A. You are speaking of the International Harvester Company as a going concern?

Q. Yes sir. A. I remember we purchased the D. M. Osborne Company; whether it was the first, I could not say.

Q. You purchased that shortly after you formed the International Harvester Company? A. Yes, sir.

Q. When you bought that you paid something like a million dollars for their property? A. I do not remember what we paid; we thought it was a good purchase.

Q. In buying them, the D. M. Osborne Company, after the company started out with \$60,000,000.00, how was it the International Harvester Company had to execute its notes to the D. M. Osborne Company for its purchase? A. I bought the D. M. Osborne Company properties, the Harvester Company had no funds to— No, I am mistaken as to that. You mean if we had \$60,000,000.00 of cash in the bank we could have bought the D. M. Osborne Company for money?

Q. Yes, sir. A. No, sir; not at all; the harvester business needs a very large working capital, and we provided what we believed would be necessary as such working capital. We needed the working capital for the business at the time we bought the D. M. Osborne plant.

Q. Do you remember how much you had in money at the time you bought the Osborne Company? A. No, sir; I should say four or five million dollars.

Q. What became of the balance of the sixty million dollars in cash? A. It was in business; loaned to farmers, to enable them to do business and buy machines.

Q. This was in the very beginning; you had not been operating long enough to place that money out among the farmers. A. My recollection is it got out very quick.

Q. After you bought the D. M. Osborne Company you operated that company as an independent concern for two years, or about a year? A. For a time; I don't know how long.

Q. Why did you operate it as an independent company and not through the International Harvester Company? A. One reason I recollect was that they had a good deal of money owing them from various people in small amounts and they felt if the matter wasn't too generally discussed they could make their collections a little closer; they thought if people thought they had gone out of business they could pay them any old time.

Q. Now, during that year or two years that you operated the D. M. Osborne Company as an independent concern, who handled the affairs of that company? A. I do not remember.

Q. You do not remember; it was done under the supervision of the International Harvester Company of New Jersey? A. Yes, sir; you see I am not—I am chairman of the finance committee; I was not in the executive committee.

Q. Now, after you started out with the International of New Jersey, I call it that so as to distinguish it, after starting out with the five concerns, you bought the D. M. Osborne Company? A. We bought it after the company was organized.

Q. That removed that from the competitive field? A. No, sir; I do not regard it in that way; they manufactured certain items that we did not have.

Q. They did manufacture machines? A. That may be, but you were asking me what I did; the thing that appealed to me about the Osborne was it helped us to get into a line that helped our organization.

Q. The principal business of the D. M. Osborne Company and what they did was to manufacture harvesters and binders? A. They

did a machine business, and also twine, but that business abroad they were making trouble; they were making it so the business in the foreign field, every once in a while enabled the farmers there to get their machines cheaper than we did.

Q. In other words, they were cutting the price in the foreign market? A. Yes, sir.

Q. You then bought their properties? A. Yes, sir; the idea was that it would enlarge our business in the lines of business that we hadn't.

Q. But to manufacture and sell the harvesters and binders was the principal business of the D. M. Osborne Company? A. I am not competent to testify; I do not recollect.

Q. What is your best judgment? A. My best judgment would be and recollection that it was not.

Q. What was their principal line of business? A. They had various small lines of business; they made twine and had a more general business.

Q. The twine which they made was used in the harvester trade? A. Yes, sir; they made other kinds of twine than we did.

Q. You afterwards bought, after you formed the International Harvester Company of New Jersey, that concern also bought the Aultman-Miller concern, the Buckeye Company? A. Yes, sir.

Q. You bought that? A. Yes, sir.

Q. They manufactured harvesters and binders? A. I do not recollect especially; I had not very much to do with them; that was a very small trade; I did not have very much to do with that.

Q. They were competitors in the harvesters and mowers with the International Harvester Company? A. My recollection is they were almost bankrupt and about to close up, and did not amount to much.

Q. They were of sufficient consequence for your company to buy? A. Not at all, as I recollect one reason was that we thought we could use their plant for other independent lines of work that we were going into; it was to get the piece of property, but did not amount to anything in the trade; we used it in other lines of trade.

Q. You know Judge Vincent? Judge Vincent bought the Aultman-Miller Buckeye Company at trustee's sale, and your company furnished him the money. A. As I say, I was not in that negotiation; I cannot testify as to how we acquired that property.

Q. But it became the property of the International Harvester Company? A. Yes, sir.

Q. You operated that company for some time as an independent concern before it was taken over? A. I do not recollect as to that.

Q. Your company, the International Harvester Company of New Jersey, also bought afterwards the Minnie Harvester Company? A. That is some company up at St. Paul, Minnesota?

Q. Yes, sir. That company was engaged in the manufacture of harvesters and binders? A. Well, I—it may have been, but our objective point to that point was the manufacture of flax twine; the harvester companies, the International Harvester Company, had been

experimenting in the hopes to be able to use the American straw in the manufacture of twine and save the expense of bringing the raw material from Manilla and Yucatan; if we could accomplish that, we could take what was a waste product of the American farmer and made it a useful product for him; it would benefit him in two ways, take his waste product and give a cheaper twine than what he had been able to secure in the past.

Q. At the time of the making of the contracts which were signed, transferring the properties of these five companies, they knew that they were to be the officers of the new company, the International Harvester Company of New Jersey? A. Not one knew that until we had formed our company and decided who we wanted for officers.

Q. They knew who was to have the controlling interests; they knew they would have it afterwards. A. They knew J. P. Morgan would have that.

Q. They knew they would own themselves the controlling interest? A. No, sir; J. P. Morgan had that and has it now.

Q. You mean you have it as a voting trust? A. Yes, sir.

Q. Who is on that voting trust? A. I control it.

Q. You are one? A. Yes, sir.

Q. Mr. Deering is another? A. Yes, sir.

Q. And Mr. McCormick another? A. Yes, sir.

Q. You say you control it? A. I should think I do; I had the impression I did anyway.

Q. Do they not have the same powers as you do in voting? A. They have, yes. I do not see how either of them could control it as long as I am on it.

Q. Cannot two control it? A. I suppose they would; it is our company; we organized it; we are responsible for it.

Q. Because you organized it, does not mean you own it? A. It does if we have a majority of the board of directors, and I am not only on the voting trust, but responsible to the whole world for the securities which we sold them. We certainly would not want to walk into that responsibility if they are willing to take it.

Q. There are only twenty million dollars securities sold to the outside world? A. All sold to it.

Q. I understood you to say the five companies put in their properties worth sixty million dollars and money forty million, that would make one hundred million, and the capital stock, that would only leave twenty million dollars? A. It is bought and sold every day in the street; how much does any one know they have when it is bought and sold every day?

Q. At the time the organization was formed is when I have reference to, at the time the formation of the International Harvester Company of New Jersey, the McCormick Company, the Plano, the Deering and the Warder-Bushnell-Glessner Company, knew they would have a controlling interest in the new corporation, the majority of the stock? A. We were very glad to have Mr. Bushnell and Mr. Glessner and Mr. McCormick and Mr. Deering come on the board; naturally, if

we could keep people who knew the business as they did into our company, we wanted to do it.

Q. You knew you could and would keep them at the time? A. We knew as soon as we formed our board of directors; we invited them to come on. We knew it when we knew it. We knew it when we made up the board.

Q. They accepted and it was understood at the time that when the new concern was formed that they would be on the directorate of the new company? A. No, sir; that came up as the make up of any board would; we wanted to get the best experts on harvesting business and the best of financial men; we brought on the directorate a majority of the people that had not been in the harvesting business.

Q. These people were the best experts in the whole country in the harvester line? A. Yes, sir; as individuals.

Q. At the time they transferred their sixty millions of properties and put in forty million dollars into it, they did not do that blindly; did they know they would not have anything to do with the controlling of it? A. My dear sir, the International Harvester Company of New Jersey, I organized it; I even chose its name; no one had anything to do with it except myself.

Q. Who selected the first board of the International Harvester Company of New Jersey? A. I did.

Q. Who had the power to do it? A. I did.

Q. Where did you get the power? A. I assumed it; it was my company.

Q. Where was McCormick and Deering when you selected the first board? A. I do not recollect whether one was eating his breakfast and the other his lunch.

Q. You were together? A. No, sir.

Q. They were both members of the voting trust? A. Yes, sir; as I finally named it they were.

Q. You assured them after their properties were turned over that they would be placed on the board of directors? A. No, sir; I had in mind the organization of the company, the kind I have described to you, and I went on with that one object in view until I accomplished it.

Q. Well, that all can be true, yet in organizing it, you do not pretend you were going to discard these people whom you bought their properties from and that you had the controlling interest in the stock itself? A. Well, Mr. McCormick and I lived in the same town since we were boys, I was glad, for personal reasons, as well as because of his ability to have him associated with me, the same way with Mr. Deering, Mr. Glessner and Mr. Jones. I was making up the best board I could to manage the kind of a company I had in mind.

Q. Mr. Cyrus H. McCormick and Charles Deering were selected as the other members of the voting trust, and have continued as such members from 1902 to the present time? A. They have.

Q. Not only for the International Harvester Company of New Jersey, but also the International Harvester Company of America? A. As to the latter I do not know.

Q. Are you not one of the members of the voting trust of the stock of the International Harvester Company of America? A. I cannot swear as to that, I know very little about that.

Q. As such trustees do you not hold 991 of the shares? A. I don't know.

Q. You have no information as to that? A. No.

Q. The first board of directors of the International Harvester Company of New Jersey in that directorate were Cyrus H. McCormick, Charles Deering and John J. Glessner and Wm. Jones. Were they on the first board of directors? A. Yes, sir; I believe so.

Q. And they have been members of the board of directors from 1902 until the present time? A. I am happy to say they have.

Q. And Mr. McCormick is president? A. Yes, sir.

Q. And Mr. McCormick is not only the president of the International Harvester Company of New Jersey, but also of the International Harvester Company of America? A. As to that I don't know. I would like to call your attention to the make up of the board, we were very careful that the majority of that board were not harvester men, for reasons I gave in my preceding testimony. I wanted to be sure of being able to carry out ideas that I had as to how that business should be managed. I did not want to take any chances in giving them sufficient power in that board to do away with any views I had in that respect.

Q. Under the voting trust, which was to last for ten years, the board of directors would have nothing to do with the policies of the company, that was left solely and entirely with the three members composing the voting trust? A. No, sir; the voting trust cannot take away from the board the running of the business.

Q. Now, since the time the company was organized in 1902, these two men, Cyrus H. McCormick and Charles Deering, these harvester men on the board of directors have they managed the actual business of the International Harvester Company of New Jersey and of America, and you have given no attention really to the actual management of the company? A. I have to differ with you, as to saying how much I have managed, very little has been done that I did not know about before and thoroughly approve.

Q. The Milwaukee Harvester Machine Company which you purchased outright, changed its corporate name, and that company is what is now known as the International Harvester Company of America, is that right? A. You will have to get that information from some one else.

Hon. Selden P. Spencer, counsel for respondent:

That is a fact.

Hon. E. W. Major, counsel for informant:

Then I understand it is admitted that it is a fact:

Hon. Selden P. Spencer, counsel for respondent:

Yes, sir.

It is admitted by counsel for respondent that the Milwaukee Harvesting Machine Company, which was purchased by the Interna-



tional Harvester Company of New Jersey, changed its corporate name to the International Harvester Company of America, and that it is now known by that name.

Q. Mr. Gary, he is on the board of directors of the International Harvester Company of New Jersey? A. Yes, sir.

Q. He is also a member of the board of directors of the United States Steel Corporation? A. Yes, sir.

Q. And the International Harvester Company of New Jersey buys of course, a great deal of steel? A. You wish me to answer that?

Q. Yes, sir. A. It is a competitor of the steel corporation.

Q. It is a competitor of the steel corporation? A. Yes, sir; a very active one.

Q. The International Harvester Company of New Jersey manufactures steel? A. Yes, sir; on a large scale.

Q. The International Harvester Company of New Jersey does nothing but a manufacturing business? A. Yes, sir; I think we so regard it.

Q. It is the International Harvester Company of America which uses as its selling corporation, it is used as its selling corporation? A. As I have said, you will have to get at that through the other officers and the lawyers as to the International Harvester Company of America, that is a part of the internal management of the affairs that others would be better competent to testify about.

Q. The management of that company would be left to the other two members of the voting trust, Mr. McCormick and Mr. Deering? A. No, sir; that has nothing to do with that.

Q. You are a member of the board of the International Harvester Company of New Jersey? A. Yes, sir.

Q. And whatever business it gets must come through the International Harvester Company of America? A. Yes, sir.

Q. Yet you know nothing about the International Harvester Company of America? A. That is because that is handled in Chicago as a part of the routine business there.

Q. Who owns the Wisconsin Steel Company?

Hon. Selden P. Spencer, counsel for respondent:

That is all in the record.

Q. Do you know who the officers and directors of the Wisconsin Steel Company are? A. I do not off hand.

Q. If the International Harvester Company of New Jersey did not purchase the capital stock of these five companies, the Deering and McCormick, the Plano and the Warder-Bushnell-Glessner, why does the contract provide for the transfer of their capital stock in each one in blank to Mr. Lane? A. I am not competent to answer, nor do I recollect as to that.

Q. Who held the stock, Mr. Perkins, from the time of the signing of the contract and transfer until the deal was completed in 1902? A. I do not recollect.

Q. You do not recollect? A. No, sir.

Q. I believe you stated you don't know whether the International Harvester Company of New Jersey had any other selling agent other

than the International Harvester Company of America? A. Yes, sir; I said I did not know.

Q. The character of the certificates which you issued to these—the value of these properties turned over by the five companies were not determined until the summer of 1903? A. Not until it was finished; I don't know the date.

Q. In the meantime how did you determine the proportionate amount of stock that each one of these people should have? A. We did not, that is my recollection, we did not.

Q. Well, you issued what is called trust certificates of stock, trust certificates, that is the kind of certificates you issue to each man? A. Yes, sir; a holding trust certificate.

Q. At the conclusion of 1912 these stock trust certificates will be exchanged for stock certificates? A. Yes, sir; straight stock.

Q. The International Harvester Company of New Jersey owns all the stock of the International Harvester Company of America? A. I cannot testify as to that.

Hon. Selden P. Spencer, counsel for respondent:  
It is held by three trustees for the stockholders.

Hon. A. E. Bancroft, counsel for respondent:  
It is already in the record.

#### CROSS-EXAMINATION.

By Hon. Edgar A. Bancroft:

Q. Something was said about foreign prices, as a matter of fact for most of the time, since the International Harvester Company of New Jersey was organized, the prices at which the International Harvester Company of America sells these goods abroad, is higher than the prices at home? A. Yes, sir; I think it is.

(Witness excused.)

Hon. Selden P. Spencer, counsel for respondent:

If your Honor please we desire at this time to deliver to the Attorney-General of the State of Missouri, Hon. Elliott W. Major, as per his request to the hearing on June 15th, 1909, a paper showing a partial list of agents in Kansas City territory handling outside harvesters and mowers, said list being prepared by witness W. P. Yancey, General Agent of the International Harvester Company of America in the Kansas City territory.

And in the same connection I also desire to deliver to General Major the Commission Agency Contract of the International Harvester Company of America for the season of 1909.

Hon. Theo. Brace, Commissioner:

Let the entry be made showing the production of the above papers and their insertion in the record at this time. The same being offered by General Major on behalf of the informant, the same being produced by Hon. Selden P. Spencer, counsel for respondent, at the request of General Major, counsel for informant.

Said list of agents and commission agency contract for 1909 here appear in words and figures as follows, to wit:

**PARTIAL LIST OF AGENTS IN KANSAS CITY, MISSOURI,  
TERRITORY HANDLING OUTSIDE BUSINESS OR  
MOWERS, PREPARED BY W. P. YANCEY,  
KANSAS CITY, MISSOURI.**

Agent.	Town.	Outside Machine.
Whitelaw & Son.....	Kidder, Mo.....	Standard Mower
Skinner Lbr. Co.....	Braymer, Mo.....	Standard Mower
R. Lee Lbr. Co.....	Ludlow, Mo.....	Johnston Binder & Mower.
R. Lee Lbr. Co.....	Dawn, Mo.....	Johnston Binder & Mower.
R. Lee Lbr. Co.....	Mooreville, Mo.....	Johnston Binder & Mower.
L. P. Long & Son.....	Hale, Mo.....	Dain Mower
M. Lester, Jr.....	Hale, Mo.....	Acme Binder & Mower
E. L. Hunt.....	Orrick, Mo.....	Dain Mower
J. M. Morrow & Son.....	Lawson, Mo.....	Acme Mower
Armstrong & Ellwood.....	Lathrop, Mo.....	Acme Mower & Binders
		Dain & Standard Mowers
Stereiff-Peterman & Co.....	Plattsburg, Mo.....	Standard Mower
C. J. Crowley.....	Rayville, Mo.....	Standard Mower
T. G. Lyon.....	Cleveland, Mo.....	Standard Mower
Drexel Merc. Co.....	Drexel, Mo.....	Acme Binder & Mower
Graham Sons.....	Amsterdam, Mo.....	Standard Mower
Gench Bros.....	Rich Hill, Mo.....	Dain Mower
L. Deacon.....	Butler, Mo.....	Acme Binder & Mower
Hackler & Son.....	Adrain, Mo.....	Acme Binder & Mower
Stark-McGill & Co.....	Freeman, Mo.....	Acme Binder & Mower
Arnold Bros.....	Creighton, Mo.....	Acme Binder & Mower
		Standard Mower
W. C. Butler.....	Calhoun, Mo.....	Crown Mower
J. N. Blakemore.....	Clinton, Mo.....	Acme Binder & Mower
		Dain Mower
Geo. Fox & Co.....	Pleasant Hill, Mo.....	Standard Mower
Hurley Lbr. Co.....	Archie, Mo.....	Acme Binder & Mower
		Standard Mower
E. T. Hisey.....	Blairstown, Mo.....	Standard Mower
Mohler & Dugan.....	Montrose, Mo.....	Acme Mower
Fred Ruch.....	Belton, Mo.....	Acme Binder & Mower
Schmoker & Sons.....	Garden City, Mo.....	Acme Binder & Mower
J. E. Sims.....	Urish, Mo.....	Acme Binder & Mower
Floyd Totten.....	East Lynne, Mo.....	Acme Binder & Mower
A. R. Wilder.....	Clinton, Mo.....	Standard Mower

Agent.	Town.	Outside Machine.
Henry Welling.....	Montrose, Mo.....	Standard Mower
Legran Thomas & Son.....	Hughesville, Mo.....	Acme Binder Dain Mower
Steele & Stone.....	Warrensburg, Mo.....	Acme Mower
J. C. Foster & Co.....	Knobnoster, Mo.....	Standard Mower
Knight-Marshall H. Co.....	Sedalia, Mo.....	Dain Mower
Brill & Wisdom.....	Lincoln, Mo.....	Standard Mower
Rudolph Meyer.....	Cole Camp, Mo.....	Acme Mower
Alma H. & I. Co.....	Alma, Mo.....	Dain Mower
R. W. Ferguson.....	Odessa, Mo.....	Standard Mower
P. H. Rea Imp. Co.....	Marshall, Mo.....	Dain & Standard Mower
Dulaney Bros.....	Slater, Mo.....	Acme Rake & Mower
Wm. Ernstmeyer.....	Hodge, Mo.....	Crown Mower
H. F. Kleinschmidt.....	Corder, Mo.....	Acme Mower
Guy Colman.....	Platte City, Mo.....	Standard Mower
Ed. Skaggs.....	Dearborn, Mo.....	Dain Mower

Hon. Elliott W. Major, Attorney-General, counsel for informant:

We desire to offer in evidence at this time, to let the record show our offer, and we will ask the counsel for the respondent to produce the Commission Agency contracts of the International Harvester Company of America for the years 1903, 1904, 1905, 1906, 1907 and 1908, inclusive:

Hon. Selden P. Spencer, counsel for respondent:

We will agree to file them if we can find them. We have experienced trouble in getting different papers for our use. If we can possibly get them we will produce them.

Said commission agency contracts as requested by Hon. Elliott W. Major, counsel for informant, and to be furnished by Hon. Selden P. Spencer, were forwarded to the stenographer for the years 1903, 1904, 1907, 1908, and here appear in the record in words and figures as follows, the same being offered by counsel for informant and on behalf of informant. The same being done by order of Hon. Theodore Brace, Commissioner.

1903.

Form 088. 20M. 9-4-02. 5M-4-3-03.

DEERING DIVISION.

#### COMMISSION AGENCY CONTRACT.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, a Corporation having offices in the City of Chicago, County of Cook and State of Illinois, hereinafter designated "COMPANY," and \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_ and State of \_\_\_\_\_ hereinafter designated "AGENT," agree and contract this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 190—, as follows:

Said COMPANY hereby appoints said \_\_\_\_\_ its SALE AGENT, under the limitations and restrictions herein specified for the sale of its DEERING harvesting and mowing machines, shredders, hay rakes, sickle grinders, binder twine attachments and repairs, in the following described territory, to wit:

\_\_\_\_\_ during the season ending December 31st, 1903.

Said AGENT accepts such agency and in consideration thereof and for the commission herein agreed to be paid, expressly agrees as follows:

- 1st. To receive all goods shipped under this agreement, to pay freight on the same from Chicago; keep the same well housed and in good condition, and to make good any damage resulting from the improper handling or storage of same until sold or reshipped; to keep the same free from all charge and expense to said COMPANY, including all taxes which may be assessed on such goods carried over in said AGENT'S possession from the preceding year. To collect from the purchaser the freight on all goods sold or assume the loss of same, and in no case to charge said COMPANY with any sum or sums for freight, handling, storage or other expenses, except provided that in case said COMPANY shall remove or transfer any goods received under this contract, said AGENT shall be entitled to the actual freight paid when the goods were received; said AGENT shall send promptly at the time of shipment to DEERING Division of said COMPANY, at ——— a duplicate shipping receipt for each shipment made.
- 2d. To diligently and thoroughly canvass said territory, and in all reasonable and proper ways promote the trade and interests of said COMPANY, and do all business pertaining to the sale of said DEERING machines, attachments, hay rakes, sickle grinders, twine and repairs; and to be governed by the printed instructions on the back of this contract, which are hereby made a part of the conditions hereof.
- 3d. To deliver, set up and fairly start every machine sold, and to instruct the purchaser how to adjust it to work, in different kinds and conditions of crops. To pay all livery expenses that may be incurred by experts or canvassers furnished by said COMPANY while assisting said AGENT.
- 4th. To sell to good and responsible parties only, and to draw all notes, taken on sales, payable to the order of said COMPANY, upon blanks furnished by said COMPANY for that purpose; said notes to bear not less than ——— per cent. interest per annum from date until due and ——— per cent. interest per annum after maturity until paid. Notes taken by said AGENT on any other terms than those prescribed by said COMPANY, shall, at the COMPANY'S option, be applied in payment of said AGENT'S commission.
- 5th. To sell all machines or property received under this contract at such prices and on such terms as shall be fixed in writing by said COMPANY or its said General Agent, in the territory herein mentioned.
- 6th. To settle with the purchaser for each machine or other article sold, hereunder, either by cash or note, AT THE TIME OF DELIVERY, and in case said AGENT shall deliver any machine or other property mentioned herein for use in the field, or permit the use of any thereof before it is fully settled for by cash or note, said AGENT shall account for and pay to said COMPANY on demand the full price of the same, together with interest thereon from October first, 1903, and also all costs and expenses incurred on account of same, and without any claim for commissions from or under any warranty by said COMPANY.
- 7th. To take a signed order from each purchaser, on blanks furnished by said COMPANY, and to use or give no warranty on any such machines other than the regular warranty which is incorporated in machine order blanks for DEERING goods furnished by said COMPANY.
- 8th. To order all attachments and repairs for DEERING machines from said COMPANY, or its said General Agent, and provide suitable storage therefor; and to sell the same for cash only, and to remit the proceeds to said COMPANY or its said General Agent; and to handle none of said articles obtained from any other source without the permission in writing of said COMPANY or its said General Agent; under penalty of forfeiture of all commissions earned upon the sale of any of the articles mentioned in this clause of this contract.
- 9th. To furnish said COMPANY or its said General Agent, whenever called upon, a full and detailed account of all sales, made under this contract, on such blank forms as shall be furnished by said COMPANY, or its said General Agent for that purpose, and to make a full and complete statement whenever called upon by said COMPANY, or its said General Agent.
- 10th. Said COMPANY agrees to pay said AGENT as commission on DEERING

machines and attachments sold, an amount equal to the difference between the total proceeds received from sales of said machines and attachments (as shall be shown by account sales), and what said machines and attachments amount to at the following net prices:

## ORDER

Machines on Hand.	Machines to be Shipped.		Net Price Each for Cash	Net Price Each for Notes
.....	.....	Deering Ideal Binder, 5 ft.....	.....	.....
.....	.....	Deering Ideal Binder, 6 ft.....	.....	.....
.....	.....	Deering Ideal Binder, 7 ft.....	.....	.....
.....	.....	Deering Ideal Binder, 8 ft., with tongue truck .....	.....	.....
.....	.....	Deering Push Header, 10 ft.....	.....	.....
.....	.....	Deering Push Header, 12 ft.....	.....	.....
.....	.....	Deering Push Binder, 10 ft., with B. C.	.....	.....
.....	.....	Deering Push Binder, 12 ft., with B. C.	.....	.....
.....	.....	Deering Push Hdr. and B., 10 ft., with B. C. ....	.....	.....
.....	.....	Deering Push Hdr. and B., 12 ft., with B. C. ....	.....	.....
.....	.....	Deering Ideal Corn Binder.....	.....	.....
.....	.....	Deering Corn Shocker.....	.....	.....
.....	.....	Bundle Carrier for Ideal Corn Binder	.....	.....
.....	.....	Flax and Clover Carrier for Ideal Binder .....	.....	Sell
.....	.....	Bundle Carrier for Ideal Binder....	.....	attach-
.....	.....	Transport for Ideal Binder.....	.....	ments
.....	.....	Flax Carrier for Header.....	.....	or
.....	.....	Flax Windrower for Header.....	.....	cash
.....	.....	Deering Ideal One-Horse Mower, 3½ ft.	.....	only.
.....	.....	Deering Ideal Vertical lift Mower, 3½ ft. ....	.....	.....
.....	.....	Deering Ideal One-Horse Mower, 4 ft.	.....	.....
.....	.....	Deering Ideal Mower, 4½ ft.....	.....	.....
.....	.....	Deering Ideal Vertical lift Mower, 4½ ft. ....	.....	.....
.....	.....	Deering Ideal Mower, 5 ft.....	.....	.....
.....	.....	Deering Ideal Vertical lift Mower, 5 ft.	.....	.....
.....	.....	Deering Ideal Giant Mower, 5 ft.....	.....	.....
.....	.....	Deering Ideal Giant Mower, 6 ft.....	.....	.....
.....	.....	Deering Ideal Giant Mower, 7 ft.....	.....	.....
.....	.....	Deering Ideal Reaper.....	.....	.....
.....	.....	Deering Corn Husker and Shredder Complete, 2 Roll, (including Blow Pipe, Truck and Ear Carrier).....	.....	.....
.....	.....	Deering Corn Husker and Shredder Complete, 4 Roll, (including Blow Pipe, Truck, Ear Carrier and Sacker)	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

11th. All sales of Deering machines on which said Company receives all cash on or before — 190— will be accepted as cash sales, and all machines that are not settled for in full with cash on or before said date, will be settled for at note prices.

12th. No commissions will be paid on attachments sold or furnished gratis with machines.

13th. Commissions shall only be paid on machines sold and settled for, and none shall be paid on machines returned, condemned, or on orders not filled; and in case sales are made to parties who are discovered or adjudged by said Company, or its said General Agent, to have been doubtful or worthless at the time of sale, the notes taken for such sales shall be received by said AGENT to apply on payment of commissions due upon sales recognized and approved by said COMPANY; and if the machine account at time of settlement is overpaid by notes, such surplus notes shall be received by said agent as payment in full or in part of commissions due. Commissions are to become due and payable at the time account of sales is rendered and settlement made, or at any time within six months thereafter, at the option of said COMPANY or its said General Agent.

14th. IT IS FURTHER AGREED, in case said COMPANY, or its said General Agent shall within six months from time of settlement find that any note, or notes, taken and passed upon at settlement were doubtful or worthless at time of sale, then said AGENT shall take said note, or notes, and replace them with cash or notes secured by good and responsible parties acceptable to said COMPANY or its said General Agent.

15th. That said COMPANY, not regarding any of the notes as satisfactory or good, may, at its option, take and hold the same as collateral to the balance due from said AGENT.

16th. Said AGENT shall receive as commission on sales of repairs twenty-five per cent. of the list price thereof, as fixed by said COMPANY'S price list of repairs for DEERING machines for the current year.

17th. IT IS FURTHER EXPRESSLY AGREED, that said AGENT is to receive in the capacity of AGENT of said COMPANY and not otherwise, all goods shipped under this contract, and all moneys, property or other securities taken in payment for machines, attachments, hay rakes, twine, repairs or other property sold by said AGENT for said COMPANY.

18th. Said AGENT further agrees not to retain, on account of commission or any other claim against said COMPANY, any moneys, notes, or other property received from the sales of any articles hereunder or from collection on notes or accounts, but to promptly remit all moneys, notes or other property to said COMPANY, or its said General Agent, leaving commissions and all other claims to be adjusted at settlement.

19th. The said AGENT further agrees, to (at the option of said COMPANY), at the time of settlement, pay for all machines set up and used as samples, not theretofore sold and accounted for hereunder, and in no event to reship a sample machine to any other agency.

20th. Said AGENT is strictly forbidden to take any part from any machine for any purpose.

21st. IT IS MUTUALLY AGREED, that said COMPANY shall at all times have exclusive and entire control over all machines and attachments, and all orders, contracts, accounts, notes, moneys or other property accruing and growing out of the sale of said machines, attachments, hay rakes, twine, repairs or other property, whether for this or previous years, and may at any time, when it considers its interests are neglected or jeopardized, without notice, annul and terminate this and all prior contracts, and take possession of all orders, notes, accounts, moneys, machines, attachments, hay rakes, twine, and any other property in the possession or under the control of said AGENT by virtue thereof; and said AGENT hereby waives all right of action for damages because of such cancellation of contract and termination of agency.

22nd. Said COMPANY agrees to use its best effort to complete and ship all machines ordered, and to supply all attachments, hay rakes, twine and repairs ordered, so long as its stock shall last, but shall not be held responsible to said AGENT for any damage in case the demand for either of said machines, attachments, hay rakes, twine or repairs shall exceed the supply, whether growing out of interruptions by fire or other elements, riot, labor disturbances, delay in transportation, or any other cause whatsoever.



23rd. Said AGENT especially agrees not to accept the agency for or be interested in the sale of any grain binder, header, corn harvester or shocker, husker and shredder, reaper, mower, hay rake, or sickle grinder, other than the DEERING herein mentioned, either directly or indirectly, nor to permit any one acting for him as employe, agent or partner, so to do while acting as AGENT for said COMPANY under this contract, and said AGENT agrees to pay said Company, on demand, as liquidated damages, twenty-five dollars for each grain binder, corn harvester or header; fifty dollars for each husker and shredder; ten dollars for each mower or reaper; five dollars for each hay rake, and one dollar for each sickle grinder sold in violation of this paragraph of this contract.

24th. Said AGENT hereby represents that he is solvent and responsible, and this contract is entered into by said COMPANY upon the faith of such representation.

25th. IT IS FURTHER AGREED, that this contract shall, in no case be valid and binding upon the said Company, of the first part, until the same shall have been approved at Chicago, Ills., and also that it cannot be subsequently changed, in any of its provisions, in any manner, either verbally or otherwise, by any person, without the written approval of said COMPANY.

INTERNATIONAL HARVESTER COMPANY OF AMERICA. [SEAL]

Acceptance Recommended,

By....., Traveling Agent.

.....General Agent.

.....[SEAL]

Approved at Chicago, Ill.,.....19..

INTERNATIONAL HARVESTER CO. OF AMERICA.

.....[SEAL]

By.....

#### SECURITY BOND.

In consideration of the appointment and retention of the within named agent of INTERNATIONAL HARVESTER COMPANY OF AMERICA, for the sale of its harvesters, binders, reapers, mowers, hay rakes, trucks, extras, twine and other property in certain territory, the undersigned jointly and severally guarantee the fulfillment by said Agent of all his obligations and duties growing out of and relating to such agency or otherwise that now or hereafter may exist, and we agree to pay said COMPANY, or its successors, all damages it or they may sustain by reason of any default of said Agent; and we hereby waive notice of acceptance of the within contract, notice of default of the above named Agent, demand and diligence; that the written acknowledgment of or a judgment of any court against said Agent, shall in every respect, bind and be conclusive against the undersigned, their heirs or representatives; and that the liability hereby created shall not be waived, modified or cancelled by any extension of time to pay or keep any part of said obligations or duties, or otherwise, nor, except by an instrument in writing, executed at the Chicago office, cancelling all liability hereunder and delivered to the undersigned. No agent has authority to vary the terms of this contract of guaranty.

Witness our hands and seals.....A. D. 190..

P. O.....[SEAL]

P. O.....[SEAL]

P. O.....[SEAL]

Form 088.

Gen'l Agt.

.....190..

#### COMMISSION

#### AGENCY CONTRACT.

DEERING DIVISION INTERNATIONAL HARVESTER COMPANY OF AMERICA.

With

.....Agt.

P. O.....

County of.....State of.....

CLOSE IN CENTER

## PREFERRED RAILWAY AND EXPRESS LINES.

Telegraph Station, Name.....  
 Telegraph Company.....  
 Preferred freight Delivery.....  
 Second Preference Freight Delivery.....  
 Preferred Express Delivery.....  
 Railroad Station Name.....  
 County.....  
 State.....

## PRINTED MATTER.

To be divided as follows:

English.....	German.....
Norwegian.....	Swedish.....
Bohemian.....	

## ESTIMATED SALES FOR 1903.

.....H. & B. ....Mowers.  
 Signed.....

## INSTRUCTIONS.

The following instructions to agents are made a part of the within contract.

1st.—We furnish you a reasonable amount of printed matter free of charge, delivered at the express office at Chicago, you to pay express charges on the same. We will not pay for newspaper or other advertisements unauthorized by us; neither will we pay for any printing of any kind whatever, except that furnished by us from our office.

2d.—We will not pay any charges for telegraphing, except for answers to messages sent by us, or unless it be in reference to parts short on machines shipped by us, or a similar case in which we are entirely at fault; and in such cases dispatches may be sent to us C. O. D.

3rd.—Our canvassers are sent to assist you and are not invested with authority to change prices or terms, consequently at time of settlement we shall consider their acts, so far as all matters affecting your contract with us, as having been done by your direction and approval.

4th.—You must give every purchaser one of our printed warranties with each machine you sell.

5th.—Should any part of machines shipped you prove defective from flaws, poor material, or bad workmanship, said defective parts may be charged back to us; but in all such cases the broken or defective parts must be exhibited at settlement to the authorized agent of said COMPANY, who shall return them to the General Agent. A complete list of all parts given free must be kept on blanks furnished by us for that purpose; this list at settlement to be subject to the approval of the General Agent herein of this COMPANY, and only such parts will be allowed as are approved.

6th.—We do not agree to furnish repairs after the first season, and then only such parts as are needed to replace those that have proved to be defective.

7th.—Knives, sickles, sections, canvases, reel-boards, reel-arms, neck-yokes, single-trees and tongues are not warranted, as they are always liable to be broken or damaged by improper usage, and MUST NEVER BE GIVEN FREE.

8th.—You must sell all extras at current list prices, and for cash only, and in no case to charge the purchaser more than the list price unless the part or parts are ordered by express especially for him.

9th.—You must not manufacture or purchase, keep in stock or offer for sale, knives, sickles, sections, or other parts manufactured and furnished for the DEERING machines by any other party than the said COMPANY.

10th.—You must sell only to the retail trade, and must not, directly or indirectly, sell or offer for sale any DEERING machines to parties outside of the within named territory, under penalty of forfeiture of all commissions to the agent in whose territory the purchaser resides; but in no case is the said COMPANY to be liable for any trespass by one agent upon the rights of another except as said COMPANY, at its option, may first collect the same from said other agent.

11th.—You must not exhibit or furnish any DEERING machines for exhibition, at

any Fair, without the written consent of said COMPANY or its aforesaid General Agent.

12th.—All men in the employ of this COMPANY are furnished money sufficient to defray their expenses, and we will not be responsible for any money you may advance to them.

INTERNATIONAL HARVESTER COMPANY OF AMERICA.

22M-11-24-03,

1904.

Form 0105. 55M 8-10-03.

DEERING DIVISION.

#### COMMISSION AGENCY CONTRACT.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, a corporation having offices in Chicago, Illinois, hereinafter designated "COMPANY," and \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_ and State of \_\_\_\_\_ hereinafter designated "AGENT," agree and contract this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 190—, as follows:

Said COMPANY hereby appoints said \_\_\_\_\_ its SALES AGENT under the limitations and restrictions herein specified for the sale of its DEERING harvesting and mowing machines, huskers and shredders, hay rakes, sickle grinders, binder twine, attachments and repairs, in the following described territory, to wit:

\_\_\_\_\_ and no other, during the season ending December 31st, 1904.

Said AGENT accepts such agency and in consideration thereof and for the commission herein agreed to be paid, expressly agrees as follows:

1st. To receive all goods shipped under this agreement, to pay freight on the same from Chicago; keep the same well housed and in good condition, and to make good any damage resulting from the improper handling or storage of same until sold or reshipped; to keep the same free from all charge and expense to said COMPANY, including all taxes which may be assessed on such goods carried over in said AGENT'S possession from the preceding year. To collect from the purchaser the freight on all goods sold or assume the loss of same, and in no case to charge said COMPANY with any sum or sums for freight, handling, storage or other expenses, except provided that in case said COMPANY shall remove or transfer any goods received under this contract, said AGENT shall be entitled to the actual freight paid when the goods were received; said agent shall send promptly at the time of shipment to DEERING DIVISION, INTERNATIONAL HARVESTER COMPANY OF AMERICA, at \_\_\_\_\_, a duplicate shipping receipt for each shipment made.

2d. To diligently and thoroughly canvass said territory, and in all reasonable and proper ways promote the trade and interests of said COMPANY, and do all business pertaining to the sale of said DEERING machines, attachments, hay rakes, sickle grinders, twine and repairs; and to be governed by the printed instructions on the back of this contract, which are hereby made a part of the conditions hereof.

3d. To deliver, set up and fairly start every machine sold, and to instruct the purchaser how to adjust it to work in different kinds and conditions of crops. To pay all livery expenses that may be incurred by experts or canvassers furnished by said COMPANY while assisting said AGENT.

4th. To sell to good and responsible parties only, and to draw all notes, taken on sales, payable to the order of INTERNATIONAL HARVESTER COMPANY OF AMERICA, upon blanks furnished by said COMPANY for that purpose; said notes to bear not less than \_\_\_\_\_ per cent. interest per annum from September 1st, 1904, until due and \_\_\_\_\_ per cent interest per annum after maturity until paid. Notes taken by said AGENT on any other terms than those prescribed by said COMPANY shall, at the COMPANY'S option, be applied in payment of said AGENT'S commission.

5th. To sell all machines or property received under this contract at such prices and on such terms as shall be fixed in writing by said COMPANY or its said General Agent, in the territory herein mentioned.

6th. To settle with the purchaser for each machine or other article sold hereunder, either by cash or note, AT THE TIME OF DELIVERY, and in case said AGENT shall deliver any machine or other property mentioned herein for use in the field, or permit the use of any thereof before it is fully settled for by cash or note, said AGENT shall account for any pay to said COMPANY on demand the full price of the same, together with interest thereon from October 1st, 1904, and also all costs and expenses incurred on account of same, and without any claim for commissions from, or under any warranty by said COMPANY.

7th. To take a signed order from each purchaser, on blanks furnished by said COMPANY, and to use or give no warranty on any such machines other than the regular warranty which is incorporated in machine order blanks for DEERING goods furnished by said COMPANY.

8th. To order all attachments and repairs for DEERING machines from said COMPANY, or its said General Agent, and provide suitable storage therefor; and to sell the same for cash only, and to remit the proceeds to said COMPANY or its General Agent;

"Inasmuch as the reputation of the COMPANY'S machines is injured by the use of ill-fitting parts made of poor material, by persons not interested in the manufacture of machines, said AGENT agrees to handle none of such repair parts, but agrees to obtain all repair parts for use on the COMPANY'S machines from said COMPANY."

9th. To furnish said COMPANY, or its said General Agent, whenever called upon, a full and detailed account of all sales made under this contract, on such blank forms as shall be furnished by said COMPANY, or its said General Agent for that purpose, and to make a full and complete settlement whenever called upon by said COMPANY, or its said General Agent.

10th. Said COMPANY agrees to pay said Agent as commission on DEERING machines and attachments sold, an amount equal to the excess in the total proceeds received from sales of said machines and attachments (as shall be shown by account sales), above what said machines and attachments amount to at the following net prices:

Machines to be Shipped.	Net Price Each for Cash.	Net Price each Notes	Net Price each Notes
		2 equal Annual Payments	3 equal Annual Payments
Deering Ideal Binder, 5 ft., with B. C....			
Deering Ideal Binder, 6 ft., with B. C....			
Deering Ideal Binder, 7 ft., with B. C....			
Deering Ideal Binder, 8 ft., with B. C. and tongue truck .....			
Deering Push Header, 10 ft.....			
Deering Push Header, 12 ft.....			
Deering Push Header, 14 ft.....			
Deering Push Binder, 10 ft.....			
Deering Push Binder, 12 ft.....			
Deering Push Header and B., 10 ft.....			
Deering Push Header and B., 12 ft.....			
Deering Ideal Corn Binder with B. C....			
Deering Corn Shocker.....			
Deering Corn Husker and Shredder Com- plete, 2 Roll, (including Blow Pipe, Truck and Ear Carrier).....			
Deering Corn Husker and Shredder Com- plete, 4 Roll, (including Blow Pipe, Truck, Ear Carrier and Sacker).....			
Bundle Carrier for Ideal Binder.....			
Bundle Carrier for Ideal Corn Binder....			
Bundle Carrier for Push Binder.....			
Flax and Clover Carrier for Ideal Binder.			
Transport for Ideal Binder.....			
Flax Carrier for Header.....			
Flax Windrower for Header.....			
Tongue Truck .....			
Header Attachment for Ideal Binder....			
Manual Delivery .....			

Sell  
Attach-  
ments  
for  
Cash  
only.

Machines to be Shipped	Net Price Each for Cash.	Net Price each Note 2 equal Annual Payments
Deering Ideal One-Horse Mower, 3½ ft.....	.....	.....
Deering Ideal Vertical lift 1-horse Mower, 3½ ft....	.....	.....
Deering Ideal One-Horse Mower, 4 ft.....	.....	.....
Deering Ideal Vertical lift 1-Horse Mower, 4 ft.....	.....	.....
Deering Ideal Mower, 4½ ft.....	.....	.....
Deering Ideal Vertical lift Mower, 4½ ft.....	.....	.....
Deering Ideal Mower, 5 ft.....	.....	.....
Deering Ideal Vertical lift Mower, 5 ft.....	.....	.....
Deering Ideal Giant Mower, 5 ft.....	.....	.....
Deering Ideal Giant Mower, 6 ft.....	.....	.....
Deering Ideal Giant Mower, 7 ft.....	.....	.....
Deering Ideal Reaper.....	.....	.....
<b>HAND DUMP RAKES.</b>		
Deering 8 ft. 26 Teeth, Steel Wheel.....	Two full payments may be given on hay rakes only when sold with mowers and included in the price of the mowers. When sold separately they must be settled for in cash or at time price in notes all due in first fall.	.....
Deering 8 ft. 26 Teeth Steel Wheel.....		.....
Deering 9 ft. 24 Teeth Steel Wheel.....		.....
Deering 9 ft. 30 Teeth, Steel Wheel.....		.....
Deering 10 ft. 26 Teeth, Steel Wheel.....		.....
Deering 10 ft. 34 Teeth, Steel Wheel.....		.....
Deering 12 ft. 30 Teeth, Steel Wheel.....	<b>HORSE DUMP RAKES.</b>	.....
Deering 6½ ft. 24 Teeth, Steel Wheel....		.....
Deering 7½ ft. 28 Teeth, Steel Wheel....		.....
Deering 8 ft. 20 Teeth, Steel Wheel.....		.....
Deering 8 ft. 26 Teeth, Steel Wheel....		.....
Deering 9 ft. 24 Teeth, Steel Wheel....		.....
Deering 9 ft. 30 Teeth, Steel Wheel.....		.....
Deering 10 ft. 26 Teeth, Steel Wheel....		.....
Deering 10 ft. 34 Teeth, Steel Wheel....		.....
Deering 12 ft. 30 Teeth, Steel Wheel....		.....
Deering 12 ft. 40 Teeth, Steel Wheel....		.....

11th. All sales of Deering machines on which said COMPANY receives all cash on or before \_\_\_\_\_ 1904, will be accepted as cash sales, and all machines that are not settled for in full with cash on or before said date will be settled for at time prices.

12th. No commissions will be paid on attachments sold or furnished gratis with machines.

13th. Commissions shall only be paid on machines sold and settled for, and none shall be paid on machines returned, condemned, or on orders not filled; and in case sales are made to parties, who are discovered or adjudged by said COMPANY, or its said General Agent, to have been doubtful or worthless at the time of sale, the notes taken for such sales shall be received by said AGENT to apply on payment of commissions due upon sales recognized and approved by said COMPANY; and if the machine account at time of settlement is overpaid by notes, such surplus notes shall be received by said AGENT as payment in full or in part of commissions due.

14th. "Notes given in accordance with the terms of this contract by purchasers of machines which are found to be good and collectible, shall be accepted at the time of settlement. Notes not deemed sufficiently good by the Settlement Agent to warrant

final acceptance thereof (whether on account of adverse reports or lack of adequate reports) shall be listed separately, and the acceptance thereof shall be deemed conditional. The COMPANY shall then be given four months from the date of settlement in which to investigate, and such of the notes so listed as shall within said period of four months be adjudged by the COMPANY to have been doubtful or worthless at the time the sales were made on account of which such notes were given, shall be returned to the AGENT and shall be replaced by the AGENT, upon demand, with cash or with other notes acceptable to the COMPANY."

15th. "The COMPANY reserves the right to hold as collateral security for the payment of the AGENT'S indebtedness to the COMPANY any purchasers' notes offered by the AGENT in settlement or received by the AGENT on account of sales of the COMPANY'S property, but not finally accepted by the COMPANY."

16th. Said AGENT shall receive as commission on sales of repairs twenty-five per cent. of the list price thereof, as fixed by said COMPANY'S price list of repairs for Deering machines for the current year.

17th. IT IS FURTHER EXPRESSLY AGREED, that said AGENT is to receive in the capacity of AGENT of said COMPANY and not otherwise, all goods shipped under this contract and all moneys, notes, property or other securities taken in payment for machines, attachments, hay rakes, twine, repairs or other property sold by said AGENT for said COMPANY.

18th. Said AGENT further agrees not to retain, on account of commission or any other claim against said COMPANY, any moneys, notes, or other property received from the sales of any articles hereunder or from collections on notes or accounts, but to promptly remit all moneys, notes or other property to said COMPANY, or its said General Agent, leaving commissions and all other claims to be adjusted at settlement.

19th. Said AGENT is strictly forbidden to take any part from any machine for the purpose of supplying customers with repairs.

20th. IT IS MUTUALLY AGREED, that said COMPANY shall at all times have exclusive and entire control over all machines and attachments and all orders, contracts, accounts, notes, moneys or other property accruing and growing out of the sale of said machines, attachments, hay rakes, twine, repairs or other property, whether for this or previous years, and may at any time, when it considers its interests are neglected or jeopardized, without notice, annul and terminate this and all prior contracts, and take possession of all orders, notes, accounts, moneys, machines, attachments, hay rakes, twine and any other property in the possession or under the control of said AGENT by virtue thereof; and said AGENT hereby waives all right of action for damages because of such cancellation of contract and termination of agency.

21st. Said COMPANY agrees to use its best effort to complete and ship all machines ordered, and to supply all attachments, hay rakes, twine and repairs ordered, so long as its stock shall last, but shall not be held responsible to said AGENT for any damage in case the demand for either of said machines, attachments, hay rakes, twine or repairs shall exceed the supply, whether growing out of interruptions by fire or other elements, riot, labor disturbances, delay in transportation or any other cause whatsoever.

22d. Said AGENT especially agrees not to accept the agency for or to be interested in the sale of any grain binder, header, corn harvester, husker and shredder, reaper, mower or hay rake, other than the Deering herein mentioned, either directly or indirectly, nor to permit any one acting for him as employee, agent or partner, so to do while acting as AGENT for said COMPANY under this contract, and said AGENT agrees to pay said COMPANY, on demand, as liquidated damages, twenty-five dollars for each grain binder, corn harvester or header; fifty dollars for each husker and shredder; ten dollars for each mower or reaper, and five dollars for each hay rake sold in violation of this paragraph of this contract.

23d. Said AGENT hereby represents that he is solvent and responsible, and this contract is entered into by said COMPANY upon the faith of such representation.

24th. IT IS FURTHER AGREED, that this contract shall, in no case, be valid and binding upon said COMPANY, of the first part, until the same shall have been

approved at Chicago, Ills., and also that it cannot be subsequently changed, in any of its provisions, in any manner, either verbally or otherwise, by any person, without the written approval of the said COMPANY.

INTERNATIONAL HARVESTER COMPANY OF AMERICA. [SEAL]

By.....Traveling Agent

.....[SEAL]

.....[SEAL]

Acceptance Recommended,

.....General Agent.

Approved at Chicago, Ill. .... 190..

INTERNATIONAL HARVESTER CO. OF AMERICA.

By.....

#### SECURITY BOND.

In consideration of the appointment and retention of the within named agent of INTERNATIONAL HARVESTER COMPANY OF AMERICA, for the sale of its harvesters, binders, huskers and shredders, reapers, mowers, hay rakes, trucks, extras, twine and other property in certain territory, the undersigned jointly and severally guarantee the fulfillment by said Agent of all his obligations and duties growing out of and relating to such agency or otherwise that now or hereafter may exist, and we agree to pay said INTERNATIONAL HARVESTER COMPANY OF AMERICA, or its successors, all damages it or they may sustain by reason of any default of said Agent, including costs and attorney's fees, together with all expenses incurred in enforcing this guaranty; and we hereby waive notice of acceptance of the within contract, notice of default of the within named Agent, demand and diligence; that the written acknowledgment of or a judgment of any court against said Agent, shall in every respect, bind and be conclusive against the undersigned, their heirs or representatives; and that the liability hereby created shall not be waived, modified or cancelled by any extension of time to pay or keep any part of said obligations or duties, or otherwise, nor, except by an instrument in writing, executed at the Chicago office, cancelling all liability hereunder and delivered to the undersigned. No agent has authority to vary the terms of this contract of guaranty.

Witness our hands and seals.....A. D. 190..

P. O.....[SEAL]

P. O.....[SEAL]

P. O.....[SEAL]

Form 0105. Gen'l Agency Town. ....190..

#### COMMISSION AGENCY CONTRACT. DEERING DIVISION.

INTERNATIONAL HARVESTER COMPANY OF AMERICA.  
(INCORPORATED)

With

..... Agt.

P. O. ....

County of ..... State of .....

#### PREFERRED RAILWAY AND EXPRESS LINES.

Telegraph Station, Name .....

Telegraph Company .....

Preferred Freight Delivery.....

Second Preference Freight Delivery.....

Preferred Express Delivery .....

Railroad Station Name .....

County .....

State .....



## PRINTED MATTER.

To Be Divided As Follows:

English.....	German.....
Norwegian.....	Swedish.....
Bohemian.....	

## ESTIMATED SALES FOR 1904.

..... H. & B. ....	Mowers.
Signed.....	

## INSTRUCTIONS.

The following instructions to agents are made a part of the within contract.

1st.—We furnish you a reasonable amount of printed matter free of charge, delivered at the express office at Chicago, you to pay express charges on the same. We will not pay for newspaper or other advertisements unauthorized by us; neither will we pay for any printing of any kind whatever, except that furnished by us from our office.

2d.—We will not pay any charges for telegraphing, except for answers to messages sent by us, or unless it be in reference to parts short on machines shipped by us, or a similar case in which we are entirely at fault; and in such cases dispatches may be sent to us C. O. D.

3rd.—Our canvassers are sent to assist you and are not invested with authority to change prices or terms, consequently at time of settlement we shall consider their acts, so far as all matters affecting your contract with us, as having been done by your direction and approval.

4th.—You must give every purchaser one of our printed warranties with each machine you sell.

5th.—Should any part of machines shipped you prove defective from flaws, poor material, or bad workmanship, said defective parts may be charged back to us; but in all such cases the broken or defective parts must be exhibited at settlement to the authorized agent of said COMPANY, who shall return them to the General Agent. A complete list of all parts given free must be kept on blanks furnished by us for that purpose; this list at settlement to be subject to the approval of the General Agent herein of this COMPANY, and only such parts will be allowed as are approved.

6th.—We do not agree to furnish repairs free after the first season, and then only such parts as are needed to replace those that have proved to be defective.

7th.—Knives, sickles, sections, canvases, reel-boards, reel-arms, neck-yokes, single-trees and tongues are not warranted, as they are always liable to be broken or damaged by improper usage, and **MUST NEVER BE GIVEN FREE.**

8th.—You must sell all extras at current list prices, and for cash only, and in no case to charge the purchaser more than the list price unless the part or parts are ordered by express especially for him.

9th.—You must sell only to the retail trade, and must not, directly or indirectly, sell or offer for sale any DEERING machines to parties outside of the within named territory, under penalty of forfeiture of all commissions to the agent in whose territory the purchaser resides; but in no case is the said INTERNATIONAL HARVESTER COMPANY OF AMERICA to be liable for any trespass by one agent upon the rights of another except as said COMPANY, at its option, may first collect the same from said other agent.

10th.—You must not exhibit or furnish any DEERING machines for exhibition, at any Fair, without the written consent of said COMPANY or its aforesaid General Agent.

11th.—All men in the employ of this COMPANY are furnished money sufficient to defray their expenses, and we will not be responsible for any money you may advance to them.

INTERNATIONAL HARVESTER COMPANY OF AMERICA.

1907

FORM NO. C 531. 120m-6-28-06.

.....MACHINE

## COMMISSION AGENCY CONTRACT.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, a corporation having offices in Chicago Illinois, hereinafter designated "COMPANY," and.....  
 .....of.....in the County  
 of ..... and State of.....  
 hereinafter designated "AGENT," agree and contract this .....  
 day of ..... A. D. 190..., as follows:

Said Company hereby appoints said ..... its SALES AGENT under the limitations and restrictions herein specified for the sale of its..... line of grain, corn and grass harvesting machinery, more particularly enumerated in schedule referred to in Article 7th of this contract, together with repairs for same, in the following described territory, to-wit: .....

..... during the season ending December 31st, 1907.  
 Said AGENT accepts such agency and in consideration thereof and for the commission herein agreed to be paid, expressly agrees as follows:

1st. To receive all goods shipped under this agreement, to pay freight on the same from Chicago; keep the same well housed and in good condition, and to make good any damage resulting from the improper handling or storage of same until sold or reshipped; to keep the same free from all charge and expense to said COMPANY, including all taxes which may be assessed on such goods carried over in said AGENT'S possession from the preceding year. To collect from the purchaser the freight on all goods sold or assume the loss of same, and in no case to charge said COMPANY with any sum or sums for freight, handling, storage or other expenses, except provided that in case said COMPANY shall remove or transfer any goods received under this contract, said AGENT shall be entitled to the actual freight paid when the goods were received.

2d. To deliver, set up and fairly start every machine sold, and to instruct the purchaser how to adjust it to work in different kinds and conditions of crops. To pay all livery expenses that may be incurred by experts or canvassers furnished by said COMPANY while assisting said AGENT.

3d. To sell to good and responsible parties only, on such terms as may be prescribed in writing by said COMPANY or its GENERAL AGENT, and to draw all notes taken on sales, payable to the order of INTERNATIONAL HARVESTER COMPANY OF AMERICA, upon blanks furnished by said COMPANY for that purpose; said notes to bear interest at the rate prescribed in schedule of prices and terms referred to in Article 7th of this contract. Notes found to be good and collectible, executed by purchasers of machines in accordance with the terms of this contract shall be accepted at the time of settlement. Notes found at time of settlement to be not in accordance with the terms of this contract shall be replaced by said AGENT, at that time with cash or other notes acceptable to said COMPANY.

4th. To settle with the purchaser for each machine or other article sold hereunder, either by cash or note, AT THE TIME OF DELIVERY, and in case said AGENT shall deliver any machine or other property mentioned herein for use in the field, or permit the use of any thereof before it is fully settled for by cash or good and collectible note, said AGENT shall account for and pay to said COMPANY on demand the full price of the same, together with interest thereon from October 1st, 1907, and also all costs and expenses incurred on account of same, and without any claim for commissions from, or under any warranty by said COMPANY.

5th. To take a signed order from each purchaser, on blanks furnished by said COMPANY, and to use or give no warranty on any such machines other than the regular warranty which is incorporated in machine order blanks for goods furnished by said COMPANY. To be governed by the printed instructions on the back of this contract which are hereby made a part of the conditions hereof.

6th. To furnish said COMPANY, or its said General Agent, whenever called upon, a full and detailed account of all sales made under this contract, in such blank forms as shall be furnished by said COMPANY, or its said General Agent for that purpose, and to make a full and complete settlement whenever called upon by said COMPANY, or its said General Agent.

7th. Said COMPANY agrees to pay said AGENT as commission on machines and attachments sold, an amount equal to the excess in the total proceeds received from sales of said machines and attachments (as shall be shown by account sales), over and above what said machines and attachments amount to at the net prices named to AGENT in separate schedule of net prices and terms, issued or to be issued by said COMPANY for the season of 1907 under this contract.

8th. All sales of machines on which said COMPANY receives all cash on or before the dates mentioned in said schedule of prices and terms will be accepted as cash sales, and all machines that are not settled for in full with cash on or before said dates will be settled for at time prices.

9th. Commissions shall only be paid on machines sold and settled for, and none shall be paid on machines returned, condemned, or on orders not filled, nor on attachments sold or furnished gratis with machines; and in case sales are made to parties who are discovered or adjudged by said COMPANY, or its said General Agent, to have been doubtful or worthless at the time of sale, the notes taken for such sales shall be received by said AGENT to apply on payment of commissions due upon sales recognized and approved by said COMPANY; and if the machine account at time of settlement is overpaid by notes, such surplus notes shall be received by said AGENT as payment in full or in part of commissions due.

10th. Said AGENT shall receive as commission on sales of repairs twenty-five per cent. of the list price thereof, as fixed by said COMPANY'S price list of repairs for these machines for the current year, and said AGENT agrees to pay freight or express on same.

11th. IT IS FURTHER EXPRESSLY AGREED, that said AGENT is to receive in the capacity of AGENT of said COMPANY and not otherwise, all goods shipped under this contract, and all moneys, property or other securities taken in payment for machines, attachments and repairs, or other property sold by said AGENT for said COMPANY.

12th. Said AGENT further agrees under this contract not to retain, on account of commission or any other claim against said COMPANY, any moneys, notes, or other property received from the sale of any articles hereunder or from collections on notes or accounts, but to promptly remit all moneys, notes or other property to said COMPANY, or its said General Agent, leaving commissions and all other claims to be adjusted at settlement.

13th. IT IS MUTUALLY AGREED, that said COMPANY shall at all times have entire control over all machines, orders, contracts, accounts, notes, moneys or other property accruing and growing out of the sale of said machines, repairs or other property, and may at any time, when it considers its interests are neglected or jeopardized, without notice, annul and terminate this contract, and take possession of all orders, notes, accounts, moneys and machines in the possession or under the control of said AGENT by virtue thereof; and said AGENT hereby waives all right of action for damages because of such cancellation of contract.

14th. Said COMPANY agrees to use its best effort to complete and ship all machines ordered, and to supply all attachments and repairs ordered under this contract so long as its stock shall last, but shall not be held responsible to said AGENT for any damage in case the demand for either of said machines, attachments or repairs shall exceed the supply, whether growing out of interruptions by fire or other elements, riot, labor disturbances, delay in transportation or any other cause whatsoever.

15th. Should this contract not be renewed, the said agent agrees to hold all unsold machines, attachments, repairs and other property subject to said Company's order for a period of ninety days from the expiration of this contract and otherwise subject to the conditions named in article one hereof.

16th. IT IS FURTHER AGREED, that this contract shall, in no case, be valid and binding upon said COMPANY, of the first part, until the same shall have been approved by the General Agent, and also that it cannot be subsequently changed, in any of its provisions, in any manner, either verbally or otherwise, by any person, without the written approval of the said General Agent.

INTERNATIONAL HARVESTER COMPANY OF AMERICA. [SEAL]  
Approved at.....190..

INTERNATIONAL HARVESTER CO. OF AMERICA.  
By....., Traveling Agent.  
.....[SEAL]  
.....[SEAL]  
By.....  
General Agent.

SECURITY BOND.

In consideration of the appointment and retention of the within named agent of INTERNATIONAL HARVESTER COMPANY OF AMERICA, for the sale of its harvesters, binders, reapers, mowers, huskers and shredders, attachments, repairs and other property in certain territory, the undersigned jointly and severally guarantee the fulfillment by said Agent of all his obligations and duties growing out of and relating to such agency or otherwise that now or hereafter may exist, and we agree to pay said COMPANY, or its successors, all damages it or they may sustain by reason of any default of such Agent; and we hereby waive notice of acceptance of the within commission contract, and of this guaranty, notice of default of the within named Agent, demand and diligence; and hereby agree that the written acknowledgment of or a judgment of any court against said Agent, shall in every respect, bind and be conclusive against the undersigned, their heirs or representatives; and that the liability hereby created shall not be waived, modified or cancelled by any extension of time to pay or keep any part of said obligations or duties, or otherwise, nor, except by an instrument in writing, executed by said COMPANY or its General Agent, cancelling all liability hereunder and delivered to the undersigned. No agent has authority to vary the terms of this contract of guaranty.

Witness our hands and seals.....A. D. 190..  
P. O.....[SEAL]  
P. O.....[SEAL]  
P. O.....[SEAL]

.....MACHINE  
Form C 531. ....190..  
Date of Contract.

1907.

COMMISSION AGENCY CONTRACT  
INTERNATIONAL HARVESTER COMPANY OF AMERICA  
(Incorporated)  
With

.....Agt.  
P. O.....  
Business Point .....  
County of .....  
State of .....  
Shipping Point .....  
Railway Co. ....  
Express Point .....  
Express Co. ....

ESTIMATED SALES FOR 1907.

.....Grain Bdrs. ....Corn Bdrs.  
.....Mowers. ....Shredders.

Signed .....  
Traveling Agent.

## INSTRUCTIONS.

The following instructions to agents are made a part of the within contract.

1st.—We furnish you a reasonable amount of printed matter free of charge, delivered at the express office at Chicago, you to pay express charges on the same. We will not pay for newspaper or other advertisements unauthorized by us; neither will we pay for any printing of any kind whatever, except that furnished by us from our office.

2d.—We will not pay any charges for telegraphing, except for answers to messages sent by us, or unless it be in reference to parts short on machines shipped by us, or a similar case in which we are entirely at fault; and in such cases dispatches may be sent to us C. O. D.

3rd.—Our canvassers are sent to assist you and are not invested with authority to change prices or terms, consequently at time of settlement we shall consider their acts, so far as all matters affecting your contract with us, as having been done by your direction and approval.

4th.—You must give every purchaser one of our printed warranties with each machine you sell.

5th.—Should any part of machines shipped you prove defective from flaws, poor material, or bad workmanship, said defective parts may be charged back to us; but in all such cases the broken or defective parts must be exhibited at settlement to the authorized agent of said COMPANY, who shall return them to the General Agent. A complete list of all parts given free must be kept on blanks furnished by us for that purpose; this list at settlement to be subject to the approval of the General Agent herein of this COMPANY, and only such parts will be allowed as are approved.

6th.—We do not agree to furnish repairs gratis after the first season, and then only such parts as are needed to replace those that have proved to be defective.

7th.—Knives, sickles and sections are not warranted, as they are always liable to be broken or damaged by improper usage, and MUST NEVER BE GIVEN FREE.

8th.—You must sell all extras at current list prices, and for cash only, and in no case to charge the purchaser more than the list price unless the part or parts are ordered by express especially for him. All attachments are to be sold for cash only.

9th.—You must sell only to the retail trade, and must not directly or indirectly, sell or offer for sale any machines to parties outside of the within named territory, under penalty of forfeiture of all commissions to the agent in whose territory the purchaser resides; but in no case is the said INTERNATIONAL HARVESTER COMPANY OF AMERICA to be liable for any trespass by one agent upon the rights of another except as said COMPANY, at its option, may first collect the same from said other agent.

10th. You must not exhibit or furnish any machines received under this contract, for exhibition at any Fair, without the written consent of said COMPANY or its aforesaid General Agent.

11th. All men in the employ of this COMPANY are furnished money sufficient to defray their expenses, and we will not be responsible for any money you may advance to them.

12th. AGENT shall send promptly at the time of shipment to INTERNATIONAL HARVESTER COMPANY OF AMERICA, at ——— a duplicate shipping receipt for each shipment made.

13th. AGENT is strictly forbidden to take any part from any machine for the purpose of supplying customers with repairs.

INTERNATIONAL HARVESTER COMPANY OF AMERICA.

Form No. C. 634. 110M-7-8-07.

.....Machine

1908.

## COMMISSION AGENCY CONTRACT, 1908.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, a corporation having offices in Chicago, Illinois, hereinafter designated "COMPANY," and ——— of ——— in the County of ——— and State of ——— hereinafter designated "AGENT," agree and contract this ——— day of ——— A. D. 190—, as follows:

Said COMPANY hereby appoints said ——— its SALES AGENT under the limitations and restrictions herein specified for the sale of its ——— line of grain, corn and grass harvesting machinery, more particularly enumerated in schedule referred to in Article 7th of this contract, together with repairs for same, in the following described territory, to wit: ——— during the season ending December 31st, 1908.

Said AGENT accepts such agency and in consideration thereof and for the commission herein agreed to be paid, expressly agrees as follows:

1st. To receive all goods shipped under this agreement, to pay freight on the same from Chicago; keep the same well housed and in good condition, and to make good any damage resulting from the improper handling or storage of same until sold or re-shipped; to keep the same free from all charge and expense to said COMPANY, including all taxes which may be assessed on such goods carried over in said AGENT'S possession from the preceding year. To collect from the purchaser the freight on all goods sold or assume the loss of same, and in no case to charge said COMPANY with any sum or sums for freight, handling, storage or other expenses, except provided that in case said COMPANY shall remove or transfer any goods received under this contract, said AGENT shall be entitled to the actual freight paid when the goods were received.

2d. To deliver, set up and fairly start every machine sold, and to instruct the purchaser how to adjust it to work in different kinds and conditions of crops. To pay all livery expenses that may be incurred by experts or canvassers furnished by said COMPANY while assisting said AGENT.

3d. To sell to good and responsible parties only, on such terms as may be prescribed in writing by said COMPANY or its GENERAL AGENT, and to draw all notes, taken on sales, payable to the order of INTERNATIONAL HARVESTER COMPANY OF AMERICA, upon blanks furnished by said COMPANY for that purpose; said notes to bear interest at the rate prescribed in schedule of prices and terms referred to in Article 7th of this contract. Notes found to be good and collectible, and executed by purchasers of machines in accordance with the terms of this contract shall be accepted at the time of settlement. Notes found at time of settlement to be not in accordance with the terms of this contract shall be replaced by said AGENT at that time with cash or other notes acceptable to said COMPANY.

4th. To settle with the purchaser for each machine or other article sold hereunder by receiving, AT THE TIME OF DELIVERY, either all cash or part cash and part note or notes; and in case said AGENT shall deliver any machine or other property mentioned herein for use in the field, or permit the use of any thereof before it is fully settled for by cash or good and collectible note, said AGENT shall account for and pay to said COMPANY on demand the full price of the same, together with interest thereon from October 1st, 1908, and also all costs and expenses incurred on account of same, and without any claim for commissions from, or under any warranty by, said COMPANY.

5th. To take a signed order from each purchaser, on blanks furnished by said COMPANY, and to use or give no warranty on any such machines other than the regular warranty which is incorporated in machine order blanks for goods furnished by said COMPANY. To be governed by the printed instructions on the back of this contract which are hereby made a part of the terms and conditions hereof.

6th. To furnish said COMPANY, or its said General Agent, whenever called upon, a full and detailed account of all sales made under this contract, on such blank forms as shall be furnished by said COMPANY, or its said General Agent for that purpose, and to make a full and complete settlement whenever called upon by said COMPANY, or its said General Agent.

7th. Said COMPANY agrees to pay said AGENT as commission on machines and attachments sold, an amount equal to the excess in the total proceeds received from sales of said machines and attachments (as shall be shown by account sales), over and above what said machines and attachments amount to at the net prices named to AGENT in separate schedule of net prices and terms, issued or to be issued by said COMPANY for the season of 1908 under this contract, and such prices are subject to increase in accordance with the conditions set forth in said schedule.

8th. Commissions shall only be paid on machines sold and settled for, and none shall be paid on machines returned, condemned, or on orders not filled, nor on attach-



ments sold or furnished gratis with machines; and in case sales are made to parties who are discovered or adjudged by said COMPANY, or its said General Agent, to have been doubtful or worthless at the time of sale, the notes taken for such sales shall be received by said AGENT to apply on payment of commissions due upon sales recognized and approved by said COMPANY without recourse to said COMPANY, or to the property for which said notes were given, or to any title reserved therein, or property pledged to secure notes accepted by said COMPANY; and if the machine account at time of settlement is overpaid by notes, such surplus notes shall be received by said AGENT as payment in full or in part of commissions due.

9th. Said AGENT shall receive as commission on sales of repairs thirty per cent of the list price thereof, as fixed by said COMPANY'S price list of repairs for these machines for the current year, and said AGENT agrees to pay all freight or express on same.

10th. IT IS FURTHER EXPRESSLY AGREED, that said AGENT is to receive in the capacity of AGENT of said COMPANY and not otherwise, all goods shipped under this contract, and all moneys, property or other securities taken in payment for machines, attachments, repairs, or other property sold by said AGENT for said COMPANY.

11th. Said AGENT further agrees under this contract not to retain, on account of commission or any other claim against said COMPANY, any moneys, notes, or other property received from the sale of any articles hereunder or from collections on notes or accounts, but to promptly remit all moneys, notes, or other property to said COMPANY, or its said General Agent, leaving commissions and all other claims to be adjusted at settlement.

12th. IT IS MUTUALLY AGREED, that said COMPANY shall at all times have entire control over all machines, orders, contracts, accounts, notes, moneys or other property accruing and growing out of the sale of said machines, repairs or other property, and may at any time, when it considers its interests are neglected or jeopardized, without notice, annul and terminate this contract, and take possession of all orders, notes, accounts, moneys and machines in the possession or under the control of said AGENT by virtue thereof; and said AGENT hereby waives and releases all right of action for damages because of such cancellation of contract.

13th. Said COMPANY agrees to use its best effort to complete and ship all machines ordered, and to supply all attachments and repairs ordered under this contract so long as its stock shall last, but it shall not be held responsible to said AGENT for any damage in case performance of this contract is rendered impossible by act of God or by the law, or by the decree of judgment of any court, or if the demand for any of said machines, attachments or repairs shall exceed the supply thereof possessed by said COMPANY—whether such insufficient supply results from interruptions by fire or other element, riot, strikes, labor disturbances, delay in transportation or any other cause whatsoever.

14th. Should this contract not be renewed, the said Agent agrees to hold all unsold machines, attachments, repairs and other property subject to said Company's order for a period of ninety days from the expiration of this contract and otherwise subject to the conditions named in Article 1 hereof.

15th. IT IS FURTHER AGREED, that this contract shall, in no case, be valid and binding upon said COMPANY, of the first part, until the same shall have been approved by the General Agent, and also that it cannot be subsequently changed, in any of its provisions, in any manner, either verbally or otherwise, by any person, without the written approval of the said General Agent.

INTERNATIONAL HARVESTER COMPANY OF AMERICA. [SEAL]

Approved at.....190.. By.....Travelling Agent

INTERNATIONAL HARVESTER CO. OF AMERICA.

.....[SEAL]  
.....[SEAL]

By.....  
General Agent.

#### SECURITY BOND.

In consideration of the appointment and retention of the within named agent of INTERNATIONAL HARVESTER COMPANY OF AMERICA, for the sale of its har-



vesters, binders, reapers, mowers, huskers and shredders, attachments, repairs and other property in certain territory, the undersigned jointly and severally guarantee the fulfillment by said Agent of all his obligations and duties growing out of and relating to such agency or otherwise that now or hereafter may exist, and we agree to pay said COMPANY, or its successors and assigns, all damages it or they may sustain by reason of any default of such Agent; and we hereby waive notice of acceptance of the within commission contract, and of the guaranty, notice of default of the within named Agent, demand and diligence; and hereby agree that the written acknowledgment of or a judgment of any court against said Agent shall in every respect, bind and be conclusive against the undersigned, their heirs and legal representatives; and that the liability hereby created shall not be waived, modified or cancelled by any extension of time to pay or keep any part of said obligations or duties, nor, except by an instrument in writing, executed by said COMPANY or its General Agent, cancelling all liability hereunder and delivered to the undersigned. No agent has authority to vary the terms of this contract of guaranty.

Witness our hands and seals,.....A. D. 190..

P. O.....[SEAL]  
 P. O.....[SEAL]  
 P. O.....[SEAL]  
 .....MACHINE

Form C 634.

.....190..  
 Date of Contract.

1908

COMMISSION AGENCY CONTRACT  
 INTERNATIONAL HARVESTER COMPANY OF AMERICA  
 (Incorporated.)

With

.....Ag.  
 P. O.....  
 Business Point .....  
 County of .....  
 State of .....  
 Shipping Point .....  
 Railway Co. ....  
 Express Point .....  
 Express Co. ....

ESTIMATED SALES FOR 1908.

.....Grain Bdrs. ....Corn Bdrs.  
 .....Mowers. ....Shredders.

Signed .....

Travelling Agent.

INSTRUCTIONS.

THE following instructions to agents are made a part of the within contract.

1st. We furnish you a reasonable amount of printed matter free of charge, delivered at the express office at Chicago, you to pay express charges on the same. We will not pay for newspaper or other advertisements unauthorized by us; neither will we pay for any printing of any kind whatever, except that furnished by us from our office.

2d. We will not pay any charges for telegraphing, except for answers to messages sent by us, or unless it be in reference to parts short on machines shipped by us, or a similar case in which we are entirely at fault; and in such case dispatches may be sent to us C. O. D.

3d. Our Canvassers are sent to assist you and are not invested with authority to change prices or terms; consequently at time of settlement we shall consider their acts, so far as all matters affecting your contract with us, as having been done by your direction and approval.

4th. You must give every purchaser one of our printed warranties with each machine you sell.

5th. Should any part of machines shipped you prove defective from flaws, poor material, or bad workmanship, said defective parts may be charged back to us; but in all such cases the broken or defective parts must be exhibited at settlement to the authorized agent of this COMPANY, who shall return them to the General Agent. A complete list of all parts given free must be kept on blanks furnished by us for that purpose; this list at settlement to be subject to the approval of the General Agent herein of this COMPANY, and only such parts will be allowed as are approved.

6th. We do not agree to furnish repairs gratis after the first season, and then only such parts as are needed to replace those that have proved to be defective.

7th. Knives, sickles and sections are not warranted, as they are always liable to be broken or damaged by improper usage, and **MUST NEVER BE GIVEN FREE**.

8th. You must sell all extras for cash only, and in no case to charge the purchaser more than the list price unless the part or parts are ordered by express especially for him.

9th. In no case is the said INTERNATIONAL HARVESTER COMPANY OF AMERICA to be liable for any trespass by one agent upon the rights of another.

10th. You must not exhibit, or furnish for exhibition at any Fair, any machines received under this contract, without the written consent of this COMPANY or its aforesaid General Agent.

11th. All men in the employ of this COMPANY are furnished money sufficient to defray their expenses, and we will not be responsible for any money you may advance to them.

12th. AGENT shall send promptly at the time of shipment to INTERNATIONAL HARVESTER COMPANY OF AMERICA, at ——— a duplicate shipping receipt for each shipment made.

13th. AGENT is strictly forbidden to take any part from any machine for the purpose of supplying customers with repairs.

14th. We will not carry to a succeeding year any canvases or other repairs indicated in catalogue by a star prefixed to number. For all such parts, shipped on your order, you must pay at settlement.

INTERNATIONAL HARVESTER COMPANY OF AMERICA.

Hon. Elliott W. Major, Attorney-General, counsel for informant:

We desire that the record shows that we offer in evidence, to be produced later and inserted in the record certified copies of the records of the office of the Secretary of State of Missouri showing whether or not the Walter A. Wood Company was licensed to do business in the State of Missouri, in the year 1902.

Second. Also certified copies of the records in the office of the Secretary of State of Missouri, showing whether or not the Acme Harvester Company was licensed to do business in the State of Missouri in 1902.

Third. And certified copies of the records of the office of the Secretary of State of Missouri showing whether or not The Johnston Harvester Company was licensed to do business in the State of Missouri in the year 1902.

And last, to introduce certified copies of the licenses of such companies as were licensed to do business in the State of Missouri at that time, viz.: in the year 1902.

With that permission and with that understanding I am now prepared to announce that the State of Missouri, informant in the above entitled cause, will close its examination in chief.

Hon. Theodore Brace, Commissioner:

Hon. E. W. Major, the Attorney-General of the State of Mis-

souri having announced he is ready to close the taking of evidence in chief on behalf of the informant in the above entitled cause, an adjournment is hereby ordered taken until September 14th, 1909, which said hearing will be held in the city of St. Louis, Missouri, at the law offices of Hon. Selden P. Spencer, counsel for respondent in the above entitled cause, at which time and at said hearing evidence will be taken on behalf of the respondent in the above entitled cause.

Testimony taken on the part of the respondent before Honorable Theo. Brace, special Commissioner at St. Louis, Mo., September 29th, 1909, at the offices of Hon. Selden P. Spencer, in the Commonwealth Trust Bldg., at the northeast corner of Broadway and Olive street.

Appearances on behalf of informant:

Hon. E. W. Major, Attorney-General of Missouri.

Hon. Charles G. Revelle, Assistant Attorney-General.

Appearances on behalf of the respondent:

Hon. Selden P. Spencer.

Hon. W. M. Williams.

Hon. P. S. Post of Chicago.

JAMES A. SPILMAN, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. James A. Spilman.

Q. Your residence, Mr. Spilman? A. Rolla, Missouri.

Q. What is the number of miles between Rolla and St. Louis?

A. One hundred and ten and a fraction.

Q. Which way? A. Straight.

Q. What business are you in now? A. Hardware.

Q. How long have you been in that business? A. Ten years or a little over.

Q. Are you handling harvesting machines? A. Yes, sir.

Q. How long have you handled them? A. Nine years.

Q. How long? A. Nine years.

Q. Prior to 1903 to the season of 1903, what harvester machines did you handle? A. I handled the Deering, sold a few Buckeyes and a few Emerson mowers.

Q. Since 1903, what machines have you been handling? A. The machine known as the International Harvester line, that was the Deering line, the Osborne, their manure spreaders, their gasoline engines and their small tools, like the harrows made by the Osborne division.

Q. Do you handle any other? A. I handled the John Deere implements, some John B. Mandly implement goods, I handle the Vulean Plow and I handle a small number of implements, such as the Rumsey would handle, the various lines that would go with my business.

Q. Do you remember prior to 1905, an exclusive agency clause in your contract requiring any one who handled the harvester line of the harvester company to handle only that harvester line and no

other? A. I do not remember the exact date, but it was some time between 1905 or up to 1905, there was such a clause, an exclusive clause in the contract.

Q. Has it been there since? A. Not to my knowledge.

Q. What was the practical effect of that? A. On me, no practical effect at all, I sold what I pleased.

Q. How about the agents around in your territory, do you know what the practical effect of it was in your territory? A. I do not think they paid any attention to it, I know some agents did not, it was in their contract.

Q. Practically so far as you know and so far as your experience goes, even when it was in your contract it never effected you? A. It never effected me.

Hon. E. W. Major, counsel for Informant:

Objects to the question as calling for an opinion of the witness.

Hon. Theo. Brace, Commissioner: Confine yourself to your own personal knowledge.

Q. Who fixes the retail price at which the goods are sold to the farmer, the harvesting machines are sold to the farmer? A. All goods that come into my store I fix the value myself.

Q. That is, you would make whatever trade you liked with the individual farmer? A. Just as I pleased.

Q. Are you confined to a territory Mr. Spilman? A. Well, the contract does not confine me to any territory, I have always sold in Rolla and vicinity, where it went out of my territory I would recommend my friends to sell it, I sold wherever it came to me.

Q. I believe your contract calls for Rolla and vicinity? A. Yes, sir.

Q. As a matter of fact, you sold wherever you wanted to? A. Yes, sir; I sold in the Salem territory and St. James territory.

Q. Are you familiar with the custom of agents in your district? A. Only I know they sold in my territory.

Q. In other words there was no territorial line as to where you sold, you sold whenever and wherever you pleased? A. Yes, sir; that is generally so.

Q. And at what price you please? A. (No answer).

Q. Alverson had a territory adjoining you, did he not? A. Yes, sir.

Q. During the years for the seasons 1903 to the season 1908, was there any increase in price in Harvesting machines? A. The price remained the same up until 1908, up to that season.

Q. What do you mean by Harvesting machines? A. A harvesting machine is any machine that would go towards harvesting a crop of grain that the farmer would raise.

Q. Mainly grain Binders and Corn Binders and Mowers and Rakes? A. Mowers and Rakes.

Q. The main line of the International Harvester Company would be Binders, Corn and Grain, and Mowers? A. Yes, sir.

Q. Between the seasons 1903 and the seasons 1908, you say there was no increase price of harvesting machines? A. None until up to the 1908 season.

Q. What was the increase in the season of 1908? A. About five per cent.

Q. What is the price now of a Grain and of a Harvester Binder?  
A. \$107.50 less five per cent for cash for settling time or the first of September.

Q. Any additional discount besides the five per cent? A. Five per cent off for cash, off of \$107.50.

Q. \$107.50? A. Less five per cent.

Q. What do you mean by five plus two per cent? A. Five plus two, well what do I mean, that would be five and two off.

Q. I was trying to recall to your mind as to whether the discount from the \$107.50 was not now in the trade called five plus two, that is, I mean a seven per cent discount? A. Yes, sir; there is a seven per cent.

Q. Explain what that is? A. On the first of July, on anything that you discount you get seven per cent. You get seven per cent. if you remit them \$500.00, they give you credit for \$35.00 discount.

Q. That is on the price of Binders? A. On the Binders. Mowers and Rakes.

Q. On the price of Binders confining yourself to that first, I understand the price to you now is \$107.50? A. Yes, sir.

Q. With a discount of five per cent? And an additional two per cent discount if sent in by July? A. Before September first.

Q. So that for cash the discount would be seven per cent? A. Yes, sir; I always figured it at seven, while it says five.

Q. You handle Corn Binders? A. Yes, sir.

Q. What is the price on Corn Binders? A. The same.

Q. The price on Corn Binders is \$107.50 less seven per cent. for cash? A. Yes, sir.

Q. That would mean the time price is \$107.50? A. You understand the Harvester Company will take notes and if you want to turn them in, if you turn in the cash they will give you a discount off instead of the notes.

Q. You get a discount? A. Yes, sir.

Q. \$107.50 would be the time price? A. Yes, sir.

Q. At \$107.50 less seven per cent would be the cash price? A. Yes, sir; practically that much.

Q. Now the cash price is the payment within what time? A. Well I suppose it varies, September is supposed to be the time, but settlement time sometimes comes later to a man and sometimes we don't send it on, they are not arbitrary about it.

Q. That is, the cash is any time between the date of the purchase and settlement time? A. Yes, sir.

Q. Which is never later than September first? A. That is on Binders and Mowers, now on the small implements.

Q. Let us confine ourselves to Binders and Mowers? A. Yes, sir.

Q. That is right is it? A. Yes, sir.

Q. You generally sell in what months? A. We sell mowers from April on up—

Q. And binders? A. March, April, May and June.

Q. On anything sold in March, April, May and June, it is considered cash if the payments are made on or before settlement time?

A. Yes, sir.

Q. And settlement time may be as early as September first and is never earlier? A. Yes, sir.

Q. And sometimes runs into November? A. Yes, sir.

Q. What do you mean by settling by farmers notes? A. If I sell—the company have a contract that in case I take their notes for one, two and three years, they will take them off of my hands in payment of so much of the account for a mower or for a binder. If I sell a binder for \$130.00 and take it in notes, they will take these notes in lieu of cash or if I discount these notes, I get a regular discount and I will take the notes myself.

Q. When they take these farmers' notes from you, do they count that as cash? A. Yes, sir; at the time price on binders.

Q. That is when you sell a binder or mowers to a farmer on time and take his note, if the time runs beyond the settlement time, you can turn the notes in as cash, but on the time payment? A. Yes, sir.

Q. That is \$107.50 for binders? What is the price of mowers now? A. About \$37.50 cash and \$38.50 and \$39.00 on time.

Q. Time \$38.00 to \$39.00? A. Yes, sir.

Q. \$37.50 cash? A. Yes, sir.

Q. That you say has been the price for how long? A. That has been the price since the International Company came in, except last season.

Q. The prices that you are now giving me are the prices for the last season? A. Yes, sir.

Q. Before then they were how much less? A. About five per cent. less.

Q. Do you remember what the prices were between 1903 and 1907, when this increase occurred on Binders? A. It was \$100.00.

Q. With what discount? A. Five per cent. off.

Q. That would be \$100.00 for time and \$95.00 for cash? A. Yes, sir.

Q. Do you remember what the price of mowers was? A. They were about \$34.50 and \$35.50 cash.

Q. Time would be \$36.50? A. Yes, sir.

Q. And cash? A. \$34.50, about that, that is not exactly with the discount, that is as near as I can give it without figuring it.

Q. What binders are these prices you are speaking about? A. The Deering.

Q. What length? A. Six foot.

Q. In both instances you were speaking about the six foot binder? A. Yes, sir.

Q. How about Mr. Spilman, if a farmer's machine gets out of order and needs attention, who attends to that? It has always been when I could not tell them what to do myself, that the company sends a man to attend to it.

Q. If a farmer's machine in your territory got out of order, you tried to settle it yourself? A. Yes, sir.



Q. Did you make any charge? A. No, sir.

Q. If you could not settle it yourself, you sent to some headquarters and got an expert to fix it for them? A. Yes, sir.

Q. Was there any charge for that? A. No, sir.

Q. Whenever the machine gets out of order the company sends a man or their experts where you can't handle it, and fixed it? A. Yes, sir.

Q. And without charge? A. Yes, sir; that was limited to one season, except in one case.

Q. That is you mean, that runs for the season in which it was purchased? A. Yes, sir; except in one case I sold mowers and they did not give satisfaction, I asked the company to make it good the next season and they furnished me all the new parts for these mowers the next season and they furnished me these without charge, that was on seven mowers that did not give satisfaction.

Q. Prior to the formation of the International Harvester Company which was in 1902, their first season was in 1903, prior to their formation, how did the prices of binders and mowers compare to the time immediately after their formation? A. The year before they taken it they were a little higher and the year afterwards they reduced about a dollar, that is the mowers and the binders, I think there was no change.

Q. I understood you to say before the International Harvester Company was formed, the price of binders was just the same as immediately after it was formed? A. Yes, sir.

Q. And the price of mowers was a little higher before it was formed than it was afterwards, about a dollar? A. Yes, sir; on the mower.

Q. Then the price continued the same from the time it was formed until the season of 1908, that is, the contract of 1907? A. Yes, sir.

Q. When there was a five per cent. reduction? A. A five per cent. increase?

Q. A five per cent increase? A. Yes, sir.

Q. What has been the general rate of price on their farm implements during the time between 1903 up to the present time? A. There has been an advance.

Q. How much? A. All the way from five to twenty per cent.

Q. What other machines are handled in Rolla? A. The McCormick, the Plano and the Milwaukee, and I have sold some Emerson mowers this year.

Q. These are not manufactured by the International Harvester Company? A. No, sir; and a few Buckeyes I sold or would, I should say.

Q. How many dealers are there there? A. There are four regular dealers.

Q. What competition is there when one man handles the Deering? A. Yes, sir.

Q. And another man handles the Plano? A. Yes, sir.

Q. And another man handles the Milwaukee and another the McCormick and the Walter A. Wood is handled by a man outside.



Q. And another man handles the Wood? A. Yes, sir.

Q. What competition is there between you and the other dealers? A. There is a right smart competition, Rolla has been noted for sharp competition in all machinery.

Q. How does the competition compare with the competition in 1903? A. I have never seen any change in the competition since I have been in business.

Q. What is the ——— how does the facility of furnishing the farmer with repairs for the different machines compare now with prior to the International Harvester Company's organization? A. There is very little change in mine, I always had ample repairs to furnish them, and I always have been able to supply them all along about the same.

Q. How about experts and canvassers? A. Well, I have had all I want all the time.

Q. Both before and after the organization of the International Harvester Company? A. Yes, sir; about the same.

Q. Has there been any change? A. Virtually no change that I could say.

Q. Is the quality of the goods now any different from those furnished before? A. In some lines I consider them a great deal better.

Q. How about the harvester line in binders and mowers? A. In mowers I think there is a great difference in value now over the old mower.

Q. Which way is the difference? A. The difference in quality is a better now, than it was before the International, it is a considerably better mower now.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. Have you been in the business there about nine years, you say? A. About ten years.

Q. Consequently you were in business there before the formation of the International Harvester Company of America? A. Yes, sir.

Q. You were selling mowers and binders then? A. Yes, sir.

Q. What company were you selling for? A. The Deering.

Q. What other machines were sold in town at that time? A. The McCormick, The Plano, the Milwaukee, the Woods and I think the Buckeye too.

Q. Well now each one of those machines had different dealers, didn't they? A. Yes, sir.

Q. And each one of you had to come in competition with one another in fixing the price, didn't you? A. Yes, sir.

Q. And you made the competition very sharp, didn't you? A. As much as we could, yes, sir.

Q. Well you sold machines a great deal cheaper than you sold them in 1904 or 1905, didn't you? A. Very little.

Q. Well there was some little? A. A small amount, very small, two or three dollars, maybe.

Q. Now the very minute the International Harvester Company of America was formed, the Plano and the Deering and the McCormick and the Buckeye were no longer in competition one with the other, were they, those companies were removed from the field? A. They were in town in competition as far as the retail price was concerned.

Q. But they were made by the same company? A. I don't know, I suppose they were.

Q. Didn't you know that they sold out to the International Harvester Company of America? A. Only what I read in the papers, I don't know it to be the truth.

Q. And what the International Harvester Company's agents told you? A. Yes, I know that.

Q. So you took it and know it as a matter of fact? A. Yes, sir; I believed it.

Q. When these independent concerns were removed from the field you still want to be understood as saying that the competition was as sharp as ever? A. The competition in our town, there has been no change in it so far as the retail value is concerned.

Q. So from your standpoint it is immaterial whether one man is selling articles or a dozen, it does not effect competition, is that your logic? A. No, as far as the retail price, I am going to try to get the sale of all the goods I can, and I have done it.

Q. That was the way you did before the International Harvester Company of America was formed; now, then, when the International Harvester Company of America was formed, who continued in that town as their agent? A. There are virtually the same agents there today.

Q. Each man? A. Each man, yes, sir; I don't think there has been any change except one firm sold out to another firm, the same store has it.

Q. But the same company sells each man the machines? A. Yes.

Q. And they give each dealer the same price on all the machines don't they? A. I don't know, I never saw another man's contract, I never saw a McCormick contract.

Q. Don't you know the price made on the Deering to you, for instance, and the price on the McCormick, made to your competitor is exactly the same? A. I don't know it, no sir.

Q. Has not the agent told you so? I don't remember it if he did, he may have.

Q. You have no recollection of it at all? A. No, sir; he may be, but I don't know that to be true.

Q. You did not feel interested enough to inquire into it? A. It makes no difference, what my goods cost is what I want to know.

Q. Don't he sell at the same price? A. Not always.

Q. Generally you do? A. No, sir.

Q. What machines are sold in your town? A. The Deering, the McCormick, the Plano, the Milwaukee and the Woods.

Q. What machine do you sell? A. The Deering.

Q. What price do you make on the Deering? A. On what size machine?

Q. The six-foot binder? A. \$125.00 cash.

Q. \$125.00 cash? A. Yes, sir.

Q. What machine was that? A. The Deering.

Q. Is that your invariable price? A. No, I sometimes get more than that and I have got less than that.

Q. Cash? A. Yes, sir.

Q. Your competitor selling the McCormick, what does he sell that for? A. I can answer you by saying there was a Milwaukee sold for \$110.00 this year?

Q. A Milwaukee? A. Yes, sir.

Q. I am inquiring from you the general price? A. I don't know what the general price is.

Q. Yet you are in competition with them? A. That does not cut any ice with me in my business.

Q. It does not make any difference what the other fellow is selling at? A. No, sir.

Q. You never inquire? A. I do once in a while, as I told you one was sold for \$110.00 and a Plano was sold at \$115.00.

Q. What was the McCormick sold for? A. I don't think one was sold this year, I don't think they sold a binder this year.

Q. Have they an agent there? A. Yes, sir.

Q. Have they a machine in town? A. Yes, sir.

Q. How long is it since the McCormick has been sold? A. They sold a binder I think last year, but not this year.

Q. When they did sell them what did they bring? A. Usually whatever they could get for them above the cost of it.

Q. What is the general price, you know that? A. The general price was \$110.00 and \$125.00.

Q. The general price on each one of the makes of the International Harvester Company's machines is exactly the same and you know it, don't you? A. I have got none at that value, I have got no such price, while there may be an agreement I know nothing about that, absolutely know nothing about it.

Q. You buy from the same company, the different makes of machines of the same company, and place them in competition in your own town and yet don't know the price of any other machine? A. I don't know what they get for them, I will answer you this way, I may be a different business man from most people, we all buy kegs of nails from the American Steel & Wire Company, they set a price and my price don't agree with the other fellows.

Q. Suppose you sold your Deering machine and your price cash was \$125.00, when you sold it, say the fellow offered you \$120.00, would you sell it to him at \$125.00 and throw in \$5.00 worth of some other kind of goods? A. I have done that.

Q. And that is generally the way you have done it? A. Not always.

Q. Don't you know that is the general way? A. No, sir; that answers you, I sold a manure spreader for \$115.00, it was priced for \$125.00 and I gave the man until November on it.

Q. Whose price? A. My price, I don't know what the other price is, I am talking about my price.

Q. What did you do? A. I sold it for \$115.00 and gave the man to November first to pay it in, and I did not consult the Harvester Company.

Q. I don't care about manure spreaders, when you generally sell a machine for \$125.00, to make it a bargain you throw something else in, and you throw that in because you have got to sell at \$125.00, don't you? A. I don't always throw in something.

Q. What made you stop and study before answering that question? A. I always have a price on my goods and I usually get it.

Q. Anybody can have that and let the other fellow set the price? A. Nobody ever set any price on my goods.

Q. They have never suggested to you what the machine ought to be sold for, have they? A. Not to my knowledge, no.

Q. Never said anything about that? A. The only time they suggested it was when they would go out and set the price themselves for me.

Q. Oh, they will set the price for you and go out for you? A. Sometimes they sent out a canvasser and saw a purchaser to sell, either go out and set the price as I told them to and if I did not tell them what to set, they set the price.

Q. So that they knew what the machine is to be sold for whether you tell them or not? A. I should think they would know what a fellow ought to get for them.

Q. Yes, that is the universal custom the country over, is it not? A. You say you pay \$107.50 for the Deering? A. Yes, sir.

Q. Did you handle the Deering before the International Harvester Company was formed? A. Yes, sir.

Q. What did you get a Deering for then? A. I got a Deering for \$95.00 cash, \$100.00 time.

Q. When you say \$95.00 cash, you had the usual six months to go on before you had to pay the money too, didn't you? A. No, sir.

Q. You did not? A. No, sir, I did not call it six months, I had them until settling time, whenever that come.

Q. The same time that you now have? A. Yes, sir, just the same.

Q. If you buy a machine in May and settle for it in September, you call that cash? A. Yes, sir.

Q. If you bought the machine in May and settled in September, it was cash? A. Yes, sir.

Q. And then it was \$95.00? A. \$95.00 cash, yes, sir.

Q. And now it is \$107.50? A. That is this year, yes, sir; the contract I am now working under.

Q. You have a contract which gives you Rolla and vicinity, have you not? A. Yes, sir.

Q. Now you say other people sell in your territory? A. They have done it.

Q. But you have raised a kick to the company? A. I have spoke to the company about it, yes, sir.

Q. And the company made it all right with you, didn't they? A. No, sir.

Q. Never did a thing about it? A. Never did a thing about it.

Q. Why didn't you carry out your contract, having Rolla and vicinity? A. I guess I got even with the other fellow selling in his territory.

Q. You have a written contract that gave you Rolla and vicinity? A. Yes, sir.

Q. If that is not what you represented, why did you have it in your contract? A. It is pretty hard to locate vicinity.

Q. You fellows conflict on vicinity and the company winked at you? A. I never got anything out of the company for that.

Q. You registered a kick? A. I mentioned the matter.

Q. You felt that you were not treated right about it? A. Well, it was not right.

Q. There is not anybody else in Rolla that can handle and sell the Deering, is there? A. I don't know if they can, I don't know if they would enter into a contract, I wouldn't want them to.

Q. They have not since you have been handling the Deering? A. No, sir; nobody has sold them except me.

Q. Don't you know that nobody but you can sell the Deering in Rolla? A. I would raise an awful kick if they had a contract.

Q. Don't you know the company told you that? A. Well, I have a contract to that effect.

Q. Do you handle any binder machine except the machine made by the International Harvester Company? A. I handle the Emerson mower.

Q. I asked you about a binder machine? A. No other binder.

Q. You have never tried to handle any other? A. I never had one in my possession.

Q. If you had the binder of some independent company in your house and the International agent came along, what would be the result? A. You ask me something I can't answer.

Q. You don't know? A. I don't know what would be the result.

Q. The company wouldn't let you handle the Deering any longer if you continued to handle the other one? A. I believe they would.

Q. Do you know of anybody that is doing that? A. No.

Q. What makes you believe it? A. I believe they are looking for good agents.

Q. You think they are looking for a monopoly on good agents? A. I think they are looking for the man that sells the goods.

Q. Do you think that you have any peculiar grip on the company that would enable them to look over your shortcomings? A. No; I have a better trade for them in Rolla than anybody else has.

Q. Than anybody else could have? A. I don't know whether could have, I have better than anybody else does have.

Q. Their machines in Rolla are being handled by all the business men in the machinery business, are they not? A. Yes, sir.

Q. There is not anybody else there to handle an independent machine, is there? A. Yes, sir; there are other merchants that could take up the machinery business the same as we have.

Q. Same that you did? A. Yes, sir.

Q. I am speaking of the actual condition that induces your

taking chances; all the men engaged in the machinery business in Rolla, they have all of them handled their machine, haven't they? A. I believe they have, no, sir; wait a minute, I beg pardon, Lindsey and Walker handle the Walter A. Wood line of mowers and binders, that is the name of the firm in Rolla, Missouri.

Q. That is the Woods machine? A. Yes, sir; the Walter A. Woods binder and mower.

Q. That is not made by the International? A. Not to my knowledge it is not, I have not been told anyhow.

Q. Why the Walter A. Woods Company went into bankruptcy, didn't they? A. I think they did this last year, they went into the hands of a receiver, I think.

Q. The International Harvester Company of America didn't have anything to do with putting them in bankruptcy, did they? A. I can't answer you.

Q. As a matter of fact then, since the formation of the International Harvester Company of America, the Walter A. Woods Company has gone into bankruptcy, that is a fact isn't it? A. I wouldn't want to say yes or no, because I don't know.

Q. That is your best recollection about it? A. Well, it is a very faint one.

Q. I thought you said a while ago that they had? A. I said I believed so, I believe I heard such, I am not positive enough to answer you.

Q. Your best recollection is—

Hon. Seldon P. Spencer, counsel for Respondent:

I submit the effort to prove the bankruptcy condition of the Walter A. Woods Company by a hardware dealer of Rolla, Missouri, is incompetent.

Hon. E. W. Major, counsel for Informant:

It is perfectly competent by anybody that might know it.

Hon. Theo. Brace, Commissioner: Objections are sustained.

Q. Now you speak about the company repairing the machines during the first season without cost to the purchaser, when you sold your machine to the man you gave him a guarantee, that anything of that sort the company will repair it during the first season, don't you? A. Yes, sir.

Q. And the company is simply carrying out the contract? A. Yes, sir.

Q. That was a part of the contract when you made it, that was taken into consideration when you made the price in the beginning? A. That was part of the consideration.

Q. So there is no virtue in fixing the machines for nothing, they are simply carrying out their contract? A. Yes, sir.

Hon. Theo. Brace, Commissioner: Gentlemen, don't argue your cases at this time.

Hon. E. W. Major, counsel for Informant:

Q. Well, since 1903 to the present time, the International Harvester Company of America has never cut the prices on the machines, on the binders and mowers, to you, have they? A. No, sir.



Q. They have not? A. Since they took it there has been no cut to me in price.

Q. Now prior to the organization of the International Harvester Company of America, prices were cut to you on the binders and mowers by the other companies were they not? A. I can only answer what I paid for my mowers and binders, the Deering mower and binder cost me the same money from 1898 or 1899 to 1902, in 1902 or 1903 they added a dollar on the mowers, but the price remained the same on mowers and binders during the four or five years while they were in the Deering name.

Q. Prior to the formation of the International Harvester Company of America, the binders and mowers had been cut to you at different times, the price, had they not? A. I couldn't answer any more than what I stated a while ago.

Q. When you sold the machines prior to the formation of the International Harvester Company of America, you would take in old machines on the sale, wouldn't you? Yes, sir.

Q. And allow so much for the old machines? A. Yes, sir.

Q. You don't take in any old machines now when you sell the International goods, do you? A. I have been just the same, took in one last week.

Q. Does the company take them from you? A. No, sir.

Q. The company would take them before and allow you to settle in for them, wouldn't they? A. No, sir.

Q. The company's agents would come themselves and go with you and fix the price on the old machine themselves, wouldn't they? A. They might have done it with some, but not with me, I was the owner of the junk myself.

Q. You said a while ago something about the Plano and Milwaukee being sold for \$110.00? A. Yes, sir; I think that was the price I got that they retailed for this year, one \$110.00 and one \$115.00.

Q. Was that this year's machine? A. Yes, sir; they were brought there this year I suppose, I don't know when, though, one came this year.

Q. What was the usual price of that machine? A. I don't know what they asked for it, all the way from \$120.00 to \$130.00, I suppose they would ask, but I don't know that they did.

Q. This machine that sold for \$110.00 was there anything the matter with it? A. Not to my knowledge there was not, no sir.

Q. Was there any other difference paid in the purchase? A. I don't know that.

Q. How do you know it sold for that? A. The man that purchased it told me he gave \$110.00 for it.

Q. The man that purchased it told you he paid \$110.00? A. Yes, sir.

Q. So that is the way you have your information? A. Yes, sir.

Q. From the purchaser? A. Yes, sir; from the purchaser.

Q. But as a matter of fact you know that is not the usual customary price to sell that machine? A. Not usual to sell it at that price.

(Witness excused.)



HENRY W. ALVERSON of lawful age, being duly sworn upon his oath, testifies as follows on behalf of the respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is what? A. Henry W. Alverson.

Q. Your residence is where? A. St. James, Missouri.

Q. How many miles is that from St. Louis? A. 101 miles.

Q. Each way? A. Yes, sir.

Q. What business are you in at St. James? A. The Hardware business.

Q. What harvester machines are you handling? A. The International.

Q. How long have you been in that business? A. I don't just remember, I think since 1892 or 1891, I don't remember which.

Q. Do you mean 1892 or 1902? A. 1901 or 1902.

Q. That is for the last eight or nine years? A. Yes, sir.

Hon. Theo. Brace, Commissioner: You mean 1901 or 1902? A. Yes, sir.

Hon. Selden P. Spencer, counsel for respondent:

What machine were you handling in 1901 or 1902? A. The Deering.

Q. What machine are you handling now? A. The Deering.

Q. What other machines are handled at St. James? A. The McCormick, I have handled the Milwaukee too, and there is the Plano and the Johnston, I believe that is all.

Q. That is, the Plano, the Johnston and the Milwaukee? A. I have sold the Milwaukee myself.

Q. And the Deering? A. Yes, sir.

Q. And the McCormick? A. No, sir.

Q. Was there any difference in price in binders and mowers between the season of 1903, that was the first season after the International was formed, and the season of 1908? A. I don't remember whether there was or not, I can't tell you.

Q. What price are you paying now for the binder? A. I paid \$107.50 less —

Q. Is that for time or cash? A. There is seven per cent discount for cash, I believe that is it.

Q. What do you mean by cash? A. September 1st.

Q. Any time from the date of purchase up to September 1st? A. Yes, sir.

Q. What is the price on the mower now? A. What they call the Ideal \$38.50 and the vertical lift \$39.50.

Q. Take either one, is there a discount of seven per cent. for cash on those also? A. Yes, sir.

Q. When was the raise in price in those machines? A. Well, I think about a year ago.

Q. Do you remember how much the raise was? A. Something

like a dollar or two, I couldn't say, I think the old price was \$36.50 and \$37.50, I don't remember, I couldn't tell you for sure.

Q. Who fixes the retail price at which you sell your goods to the farmer? A. I do.

Q. You sell it for anything that you like to the farmer? A. Yes, sir.

Q. What is your territory? A. Any place.

Q. Your territory for sale? A. Wherever I can sell one.

Q. Do you remember when the exclusive agency clause was in the contract requiring the agent to handle only the goods of the International Harvester Company, and not to handle any other harvesting goods? A. No, sir; I never paid enough attention to see whether there was an exclusive agency clause in it or not.

Q. Did you handle any goods you wanted to? A. Yes, sir.

Q. What competition is there between you and the other dealers in your town in the goods that you are handling? A. There is the McCormick, the Johnston, and the Plano, there was no Plano there this year, there has been prior to this year, the gentleman died this year that handled it.

Q. How does the competition between you and the other dealers compare now with what it was before the season of 1903, the first two years you were in business, 1900, 1901, 1902, how does the competition now compare with that? A. I guess they sell the same as I do, just as they like.

Q. Is there as much competition between the dealers now as there was then? A. There seems to be, sometimes they beat me, I guess it is the price.

Q. How about the repairs for farmers now as compared with the time before the International Harvester Company was formed?

E. W. Major, counsel for Informant:

Objects to the question.

Q. State the facts about the accessibility of repairs to the farmer?

A. They give them anything they want.

Hon. Theo. Brace, Commissioner: Speak louder.

A. They can get anything they call for, if I have not got it in stock I will order it for them.

Hon. Selden P. Spencer, counsel for Respondent:

Now before the International Company was formed you were handling the Deering? A. Yes, sir.

Q. Could you then get repairs for the Plano, the Champion or the McCormick, if you wanted to? A. I don't know.

Q. You never tried? A. No, sir; I never tried it.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revell:

Q. Have you since 1903, tried to get repairs for the Plano, the McCormick and other machines outside of the one that you are handling now? A. I got repairs for the Milwaukee, I never tried to get any other.

Q. You handled the Milwaukee? A. Yes, sir; I had no contract.

Q. You sold it? A. Yes sir.

Q. For the machines that you sold, of course you made arrangements to get repairs for the ones you sold? A. Yes, sir.

Q. Before 1903, you did not experience any difficulty in getting repairs for your Deering machine, did you, when you ordered them? A. No, sir.

Q. Then the condition now with reference to getting repairs is just about the same at it was before 1903? A. Yes, sir, I guess so.

Q. Who handles the Johnston machine in your town? A. Mr. Bray.

Q. How long has he handled it? A. I couldn't say.

Q. Has he begun the handling of that since 1903? A. Yes, sir.

Q. Have you no idea as to what year? A. No, sir; I know he said he had it, that is all.

Q. Do you know of his having sold any of those machines in your community? A. No, sir.

Q. In fact, he is not a fellow that makes any effort to sell a machine, does he? A. Yes, sir.

Q. He does not succeed at least? A. Yes, sir.

Q. Has he sold any? A. He has sold some, yes, sir.

Q. Do you know how many he has sold? A. I do not.

Q. Do you know whether he sold any this last year? A. He said he did.

Q. But you have no knowledge of it yourself? A. No, sir; not direct.

Q. The competition that he makes then is not fierce enough to even enable you to know where he sold a single machine, is it? A. I could go and look it up and tell you.

Q. In your general line of business he has not made competition fierce enough for you to even find out where he sold a single machine? A. He makes it pretty hot for me sometimes.

Q. You don't know of his selling a machine? A. I think he sells more than I do.

Q. I ask you to state what you know, do you know the name of a man that he sold a Johnston to? A. No, sir.

Q. Now the company sends solicitors and canvassers to aid you in making sales, does it? A. Yes, sir.

Q. They do that now to the same extent that they did before 1903? A. Yes, sir.

Q. After the Johnston went in there they kept a solicitor there a considerable length of time, didn't they? A. No, sir; not any longer than usual.

Q. They increased their efforts to make their sales after that time, didn't they, to enable you to make your sales? A. I don't think they used any more effort then than they ever did.

Q. Do they send any canvassers to aid the agents of the McCormick and the other machines that are sold there? A. Yes, sir.

Q. Do they send the same party or different parties to aid you? A. They send different parties.

Q. The company never has reduced the list price to you since 1903, has it? A. I don't remember.

Q. You know as a matter of fact they have not? A. I couldn't say they did not.

Q. You do not recall any specific places where they ever did cut the list price to you since 1903? A. I couldn't say.

Q. Now have you ever handled a binder or mower of any company outside of the International Harvester Company of America since 1903? A. I have never sold anything else.

Q. Their agents have impressed the fact on you that it is to your interest not to do it, have they not? A. No, sir.

Q. You never discussed that feature with them? A. No, sir.

Q. Now you say that you have no fixed territory in which to sell machines? A. Oh, I wouldn't go more than twenty miles away from town to sell it.

Q. Have you ever read your contract? A. No, sir.

Q. Never looked at it? A. I never read anything like that in it.

Q. Have you ever read your contract? A. No; not all the way through.

Q. You signed it without reading it? A. Yes, sir.

Q. You don't know that your contract states that you can only sell in St. James and that vicinity? A. No, sir; I don't know it.

Q. How far out from St. James have you ever made a sale since 1903? A. Fifteen miles, and maybe twenty.

Q. I don't want maybes, I want to know as a matter of fact? A. I know I have sold one fifteen miles away.

Q. Was there an agent for the Deering at that place? A. There was an agent within three miles of it.

Q. Did he make any complaint? A. Not to my knowledge.

Q. Does he come over in your community and make sales? A. Not to my knowledge.

Q. You never heard of it? A. No, sir.

Q. Now, isn't it a fact that in 1903, the International Harvester Company reduced the price of the machine? A. You mean to me?

Q. To their agents in general? A. I couldn't say about that. I don't remember.

Q. Didn't they reduce the price on the binder in 1903, some two or three dollars? A. I couldn't say.

Q. Did they not reduce the price of the mower in 1903 two or three dollars or a dollar? A. I couldn't say as to that, I do not remember.

Q. You were handling machines at that time, were you not? A. Yes, sir; I can't remember these things.

Q. Has the Osborne machine been sold in your community? A. It used to be sold there.

Q. Before 1903? A. I think so, there were some there in the country.

Q. Since the International Harvester Company got control of

the Osborne, the Osborne has not been sold there, has it? A. I don't sell their mowing machine, I sell the Disc and Peg Tooth Harrows.

Q. I am talking about the binders and mowers? A. No, sir; I don't think so.

Q. They have not been sold there at all? A. No, sir.

Q. What price did you pay for the six-foot binder before 1903?

A. I couldn't say for sure, I think it was \$100.00.

Q. Don't you know as a matter of fact that it was but \$95.00?

A. I couldn't remember that for sure.

Q. You then don't know? A. Not for sure; no, sir.

Q. At all times prior to 1903, you were giving the same cash period as now, that is up to the date of settlement, any notes that you turned in by way of cash you got the benefit of the cash discount before 1903, the same as you have since, didn't you? A. I couldn't say whether I did or not.

Q. You evidently don't do much business down there? A. Yes, sir.

Q. You can't recall any of these facts, can't recall the time you had in which to collect the cash from the farmers and turn it over to the company and get your discount? A. I think we always could get the discount to my recollection.

Q. I asked before what time in 1903, what time were you given?

A. September 1st, I believe.

Q. What time are you given now? A. September 1st.

Q. Then the time is the same then as now? A. Yes, sir.

Q. Do you remember the price that this company made to you on your Deering in 1907? A. No, sir; I don't.

Q. Or 1908? A. 1908, I think \$107.50.

Q. Now you know as a matter of fact in 1907, it was \$95.00 don't you? A. No, sir; I couldn't say as to that.

Q. Do you know what it was in 1905 or 1906? A. No, sir.

Q. Or 1905? A. No, sir.

Q. Or 1904? A. No, sir.

Q. Well the competition that you speak of down there, state what that is, what do you do in the way of competing with one another, you agents? A. He sells his goods and I sell mine.

Q. That is all the competition there is? A. Sometimes he cuts the price and sometimes I do.

Q. When did you ever cut the price on a Deering binder? A. This year.

Q. When was that? A. This year, \$5.00.

Q. How much? A. \$5.00.

Q. Was that on the cash or time price? A. On the time price.

Q. Did you make that reduction in the way of a cash reduction, or did you merely give the fellow something? A. I sold it to him for \$5.00 less.

Q. You took his notes, those notes of course were good, did you turn those notes in? A. No, sir.

Q. Then you discounted those yourself? A. Yes, sir.

Q. You have never informed the agent of the company that you

made that reduction, have you? A. I think I told Mr. East that I did.

Q. Do you know that you did? A. No, sir; I couldn't swear that I did.

Q. You would not swear to it? A. No, sir.

Q. Before 1903, the practice of cutting the price was very common, wasn't it? A. Not any more so than it is now.

Q. It was not? A. No, sir; I don't think so.

Q. You didn't cut the prices before 1903 any more than you do now? A. No, sir.

Q. And your competitor did not? A. I don't think so.

Q. Do you know so? A. No, sir; I don't know much about his business.

Q. Then there is not very much competition in the business down in your community at all and has not been? A. Yes, sir; there is competition now.

Q. Do you take in old machines? A. No, sir.

Q. Did you ever do that? A. Yes, sir.

Q. You did that before 1903, didn't you? A. I think so.

Q. You have not done it since, have you? A. No, sir.

Q. Your competitors don't either, do they? A. I don't think so.

Q. They did before 1903? A. Yes, sir; I believe they did. They had them I know.

Q. You know as a matter of fact, do you not, that before 1903, when one company would send in their solicitors another company would send in theirs, and they would get after a prospective purchaser and these two canvassers would reduce the price on those two machines that they were selling, that was done before 1903, in your community, wasn't it? A. Not without my consent.

Q. Well, with your consent, it was done before 1903, wasn't it? A. If I told them to cut the price they cut it.

Q. When you would find that the solicitor of one of the competing companies was after a certain prospective purchaser then the solicitor of your company would come out and get hold of the fellow and you fellows would cut the price to him to get that sale? A. Not any more than I do now.

Q. You did that before 1903, frequently? A. Not any more than I do now.

Q. Did you do that then frequently? A. Yes, sir.

Q. And you do it frequently now? A. Yes, sir.

Q. How many times have you done it this year? A. Three or four times, several times, I guess.

Q. How many machines have you sold this year? A. Five mowers and two binders.

Q. And you cut the price on four or five of those? A. I cut the price on one of the binders and cut the price on the mowers.

Q. How many mowers? A. Two of them.

Q. How much did you cut the price on the mowers? A. I think it was a dollar or something like that.

Q. Was one of your competitors after that prospective purchaser? A. I thought he was.

Q. Did your company have a solicitor down there to aid you in making that sale? A. Yes, sir.

Q. Did your competitor also have a solicitor with him? A. I couldn't say.

Q. What mower was it that you were competing with on that sale? A. The McCormick.

Q. You knew as a matter of fact that if your competitor had sold a McCormick or you had sold your Deering the net results were the same for the International Harvester Company, weren't they? A. I don't know, I couldn't say.

Q. Do you know the price that the International Harvester Company charges your competitor for his McCormick mower? A. No, sir.

Q. Do you handle any wagons? A. No, sir; not now.

Q. What other farm implements do you handle outside of binders and mowers? A. Disc harrows.

Q. Whose disc harrows do you handle? A. The Osborne.

Q. Who makes them? A. It is made in Albany, New York, by the Osborne Company.

Q. Made by the International Harvester people, isn't it? A. I think they control it, yes, sir.

Q. What other farm implements do you handle? A. That is all I handle.

Q. Everything in the way of farm implements that you handle is made by the International Harvester Company, isn't it? A. At the present time, yes, sir; I used to handle other goods, but I don't now.

Q. But that was not the condition before 1903, you handled the machines and implements of other companies before 1903, didn't you? A. No, sir.

Q. Did you never handle any wagons? A. Yes, sir.

Q. Up until what year did you handle wagons? A. I believe it was 1906.

Q. Whose did you handle? A. The International.

Q. Was that the Weber wagon? A. Yes, sir; and the Columbus.

Q. Do you know whether there was an increase in price of wagons this year? A. I don't know.

Q. Don't you know as a matter of fact there has been a decrease in the price of wagons since 1903, by the International Harvester Company? A. I couldn't say.

Q. Don't you know as a matter of fact there has not been as great an increase in the price of their wagons as there has been in the price of their binders and mowers? A. I don't know, I quit handling them.

Q. They have a whole lot of competition on wagons? A. Yes, sir.



Q. They have not as much on binders and mowers? A. About as much as on wagons.

Q. Do you mean to say they have as much competition on binders and mowers as on wagons? A. They have in our town.

Q. Who handles the Weber wagon in your town now? A. I don't think it is sold there.

Q. The man that handles the Johnston machine, he does not handle any? A. He handles the Columbus.

Q. That is not made by the International? A. Yes, sir.

Q. Is the Columbus wagon made by the International Harvester Company of America? A. Yes, sir.

Q. And he sells that? A. Yes, sir.

Q. You know that of your own knowledge, do you? A. Yes, sir.

Q. How long has he been handling that wagon? A. I judge about a year.

Q. Do you know that? A. Yes, sir.

Q. Do you know when the International Harvester Company began making the Columbus wagon? A. No, sir.

Q. Do you know as a matter of your own knowledge that they do make it? A. I sold them before the other man had them.

Q. When did you sell them? A. I think it was 1894 and 1896, something like that.

Q. But you don't know how the price compared now and then on the wagons? A. No, sir; I paid no attention.

Hon. Theo. Brace, Commissioner: I judge you mean 1904 and 1906? A. Yes, sir.

Hon. Charles G. Revelle, counsel for Informant:

Q. Who is the block man in your territory? A. Mr. John East.

Q. Who is the general agent? A. Mr. Funston.

Q. When did you see your block man last? A. I believe two weeks ago today.

Q. When did you see your general agent the last before you came up here? A. He was out there at the log rolling.

Q. When was that? A. The last of July, I believe.

Q. Which one was it that you discussed your testimony with? A. I have not discussed it with any of them.

Q. They didn't talk to you about bringing you up here as a witness? A. They said they were going to have a suit, that is all they said to me.

Q. They didn't say anything to you about bringing you up as a witness? A. No, sir; when he was there.

Q. Didn't he ask you what your testimony would be? A. No, sir.

Q. They simply told you they were going to have a suit? A. Yes, sir.

Q. Was that the general agent or the block man? A. I think it was Mr. East.

Q. That was the block man? A. Yes, sir.

Q. Did these block men tell you the prices that other agents were getting for machines? A. No, sir.

Q. They never told you the price that these machines generally sell for over the state? A. No, sir; not to my knowledge.

Q. Then you have no idea as to the price at which these machines were selling at other places? A. I have an idea what my competitor is doing.

Q. No, your Deering machine? A. No, sir.

Q. It has never been suggested to you that you ought to get such and such a price for your machine? A. No, sir.

Q. How many machines did you sell last year?

Hon. Selden P. Spencer, counsel for Respondent: He answered that.

Hon. Charles G. Revelle: No, he did not, he answered this year.

A. I couldn't tell.

Q. You didn't sell very many, did you? A. I think I sold as much as I did this year.

Q. How many did you sell? A. I don't know how many.

Q. Do you know how many you sold the year before? A. No, sir.

Q. You are not a very extensive dealer in farm machines, are you? A. I sell all I can.

Q. I understand that, but even that does not make you a very extensive dealer down there, does it? (No answer.)

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Do you remember the year when you say old machines were taken by you in exchange or part payment? A. Yes, sir.

Q. Do you remember what year it was? A. I think it was the first year I had a contract with the Deering people.

Q. Do you remember how many you took? A. No, sir; I do not.

Q. Did you ever take in any except for that first year? A. No, sir.

Q. That was when you were starting in business? A. Yes, sir.

Q. Do you remember whether there was one, two or three? A. There was three or four.

Q. After the first year you never took any other? A. No, sir.

Q. That was 1901? A. Yes; I believe so.

Q. When did you start? A. I think it was 1901.

Q. I understood you to say that the man who handles the Johnston binder in your town, which is manufactured by the Johnston people, also handles the Columbus wagon that is manufactured by the International people, is that right? A. Yes, sir.

## RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Then the International Harvester Company has a line on every man who handles farm implements in your town?

A. Hon. Selden P. Spencer, counsel for Respondent, objects to the question as being argumentative.

Hon. Theo. Brace, Special Commissioner: Both you gentlemen are indulging in arguments with your witnesses, and I don't know exactly where to draw the line.

Hon. Selden P. Spencer, counsel for Respondent: I will withdraw the objection, but the question is not pressed and the witness is excused.

JAMES H. BUTLER of lawful age, being duly sworn upon his oath, testifies as follows on behalf of the respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. James H. Butler.

Q. Where do you live? A. Salem, Missouri.

Q. How many miles is Salem from St. Louis? A. 127.

Q. What business are you in? A. General merchandise.

Q. What harvesting machines do you handle? A. The Deering.

Q. How long have you handled it? A. Eight or ten years.

Q. For how long? A. About eight or ten years, I don't know just what year I began to handle them.

Q. How long have you handled harvesting machines? A. The concern that I am representing has handled them for forty years at the same place.

Q. You have been in the concern how long? A. Only twenty-three years.

Q. What machine did they handle before the Deering? A. They handled the Champion.

Q. You have handled the Deering for seven or eight years and the Champion before that? A. Yes, sir.

Q. Mr. Butler, was there any change of price in harvesting machines between the season of 1903 and the season of 1908, and by harvesting machines I mean grain binders, corn binders and mowers? A. I wouldn't think so.

Q. Now, between the years 1903 and 1908, the season of 1903, and the season of 1908? A. I wouldn't be sure about that without referring to the contracts.

Q. The International Harvester Company had its first season in 1903, do you remember whether there was any difference in price in harvesting machines between 1903 and a year or two just before that? A. I think the last contract it seems to me that we had with the Deering people the price was probably a little lower or little greater than the first contract we had with the International Harvester people.

Q. Your recollection is that the last contract that you had with the Deering before the International was formed was a little higher than your first contract in the International Company? A. Yes, sir.

Q. Who fixes the price at which you sell the farmer? A. I do, as manager of the business.

Q. Does anybody dictate to you, I mean any person outside of your firm dictate to you what you shall sell at? A. No, sir.

Q. Or where you shall sell? A. No, sir.

Q. Can you sell wherever you like and at whatever price you like? A. Yes, sir; I have been able to so far; yes, sir.

Q. Has there been any objection to your doing it? A. Not that I ever heard of.

Q. Do you remember that prior to 1905, there was an exclusive agency clause in your contract requiring you to handle only the goods of the International Company? A. I believe there was such a clause in the contract, but I did not give it any attention because I did not live up to that part of it.

Q. You mean you did handle other machines? A. Yes, sir.

Q. Have you always during the time you have been in business, handled other machines? A. Yes, sir; any other machine that I wanted to handle.

Q. That is since the International Harvester Company was formed in 1902, you were handling the Deering binder manufactured by that company, since 1903, you have been handling the Deering Binder? A. Yes, sir.

Q. And the mower that was also manufactured by them? A. Yes, sir.

Q. During these years have you handled other machines not manufactured by that company? A. Not as I understand the line of harvesting machines, but I have handled other wagons, and hay loaders and hay rakes and stuff like that.

Q. Hay rakes, loaders and wagons and any other farming implements? A. Yes, sir.

Q. And other goods not handled by the International Harvester Company, you have handled them as you like? A. Yes, sir.

Q. And no objection has ever been made to it? A. No, sir.

Q. What other dealers are there in Salem? A. The Dunk Brothers.

Q. What do they handle? A. They handle the Champion.

Q. M. O. Elayer handles what? A. The Plano.

Q. Any others? A. The Hobsen Mercantile Company handle the McCormick, Terrill & Co. handle the Osborne.

Q. Any other dealers? A. No, sir; I think not.

Q. That is all that you think of? A. Yes, sir.

Q. What is the competition between these dealers now? A. About the same as it always has been.

Q. Any difference in the competition as it exists since 1903 and before that time? A. I don't see that there is, we have to work for what we get.

Q. You think the competition since the formation of the Inter-

national in your town is about the same as it was before? A. Yes, sir.

Q. Are you familiar with the territory around you, Mr. Butler, in the adjoining counties? A. I think I am.

Q. With the dealers and their business there? A. Yes, sir.

Q. Do you know what the competition is in those surrounding counties? A. In what way.

Q. What is the character of competition? A. The competition is the same as it is in any other line of merchandise in regard to harvesting machines. If I can sell a man over in Phelps county, I sell him, and a man in Phelps county can sell in Dent county.

Q. There is the same competition in harvesting machines that there is in any other business? A. Yes, sir.

Q. How about expert help and canvassers, who furnishes that in harvesting machines when you sell them? A. The International people.

Q. Is there any charge made for that? A. Extra charge?

Q. Yes? A. No, sir.

Q. Are they furnished as freely now as before the International Company was formed? A. I have not had one on our place since then, I could have by asking it, but I have not seen it——

Hon. E. W. Major, counsel for Informant:

Object to this testimony as being a conclusion of

Q. Have you had in any of them?

A. Hon. Theo. Brace, Special Commissioner: He said he had not.

Hon. Selden P. Spencer, counsel for Respondent:

Is there any difference in furnishing experts or canvassers since 1903, from what it was before?

Hon. E. W. Major, counsel for Informant:

Object to the question as calling for a conclusion of the witness.

Hon. Theo. Brace, Special Commissioner:

He has said he has not needed them.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. You have been handling the Deering for eight or ten years?

A. Yes, sir.

Q. And prior to that time you handled the Champion? A. There was an intermission there that we did not handle any machine for six or eight years, but the Clark Brothers Mercantile Company sold the first machine in that country.

Q. I don't care about the Clark Brothers, the machine that you did sell before was the Champion? A. Yes, sir.

Q. The two machines you did sell in the last 23 years have been the Deering and the Champion? A. Yes, sir.

Q. Both machines are now made by the International Harvester Company? A. I suppose so.

Q. You know they are? A. They control them.

Q. You say the last year you handled the Deering machine before the International Harvester Company was organized, you got the machine a little bit—the price was a little bit higher? A. How is that.

Q. That last year that you bought the Deering as a machine from the independent company, that is Deering himself, their company, it was a little bit higher than it was the first year the International of America was doing business? A. I think the first contract—

Q. The first year the International Harvester Company of America went into business they cut the price of the machine? A. I think our contract was a dollar, probably less on a mower.

Q. It was \$5.00 less on a binder? A. Well, it might have been, I wouldn't be sure about that, I think both of my contracts are here.

Q. You said a while ago it was higher than last year that you bought from Deering than it was the first year that you bought from the International people? A. I think so.

Q. So that they were bound to reduce the price on your Deering machine and they reduced it \$5.00? A. On a binder.

Q. A six-foot binder? A. I don't remember how much.

Q. You know it was reduced some? A. I think so.

Q. After the first year then the price on the same Deering binder began to gradually increase each year until now it is \$107.50? A. I think that is the price now.

Q. Didn't it increase, never did get any lower than the first year, but gradually got higher? A. No, sir; other farm implements got higher.

Q. I am not asking for that and that is none of your concern, I am asking you about the binder. It never got any cheaper? A. No, sir.

Q. You are not here to defend the company, are you? A. No, sir.

Q. In 1903 the International Harvester Company of America did not own the Osborne plant, did they? A. I couldn't tell you about that.

Q. The Osborne was being sold down there during that time, wasn't it? A. I don't think the Osborne has ever been out of there.

Q. The International people were not selling the Osborne then? A. I couldn't tell you about that, the Osborne has never been very much in competition, they never sold many machines and it was not in the way very much, and I did not investigate about it to know about it.

Q. You have had a written contract since 1903 each year with the International people? A. Yes, sir.

Q. And that gives you the right to sell their machine, the Deering, at Salem and vicinity? A. Yes, sir.

Q. And no other man could sell the Deering at Salem and vicinity save and except yourself? A. That is the way I would understand it.

Q. That is what the agent told you? A. Yes, sir.

Q. The only machines that you sold at your place are the Deer-

ing, the McCormick, the Osborne and the Plano? A. And the Champion.

Q. Those machines are all sold now at your place? A. Yes, sir.

Q. But each and every one of those machines are made and manufactured by the International Harvester Company of America? A. That is the way I understand it.

Q. So that the same company sells all the machines at that place to the farmers, don't they? A. Yes, sir.

Q. So that there is no competition between the manufacturers at your place? A. Very little, I guess.

Q. Well there is none, there is not anybody else selling them? A. Well, there are some Johnston mowers sold in that town.

Q. I am speaking of the binders? A. I don't know of any binders being sold.

Q. So that the International Harvester Company of America sells all the machines at your place with no competition, so that the only competition, if there is any, is in the energy and industry which each one of you agents may have in competing with one another in selling the same company's machine, isn't it? A. Well, that is a natural conclusion.

Q. Prior to 1903, you bought your Deering machine at different prices from the company, didn't you, you got cuts once in a while on the price, did you not? A. No, sir; I don't think so.

Q. You don't recall that you did? A. No, sir.

Q. You took in old machines then? A. Well, we were allowed, we have never taken in mowers, we might have taken a few binders probably at \$10.00.

Q. Prior to 1903, you could take in an old machine, and allow, say \$10.00 for it? A. Yes, sir.

Q. Did the company then allow you \$10.00? A. Since that.

Q. When you took in an old machine at \$10.00 did the company allow you credit for \$10.00 for the old machine? A. Yes, sir.

Q. But since 1903 do you take in any old machines? A. Yes, sir; I took one in in 1907.

Q. Does the company allow you credit for it? A. No, sir.

Q. Is that the only time? A. I sold one machine in 1907, one binder, and I have taken in an old binder for \$10.00 in settlement they billed me that binder at \$85.00.

Q. Did you give them the old machine? A. The old machine was left with the farmer yet.

Q. You didn't take the machine in? A. Yes, sir; I allowed the farmer \$10.00 for the machine and he brought me the canvasses off of it and I told him to leave the other there until I called for it.

Q. What make was that machine? A. The Deering.

Hon. Theo. Brace, Commissioner:

Q. Did I understand you to say that you settled with the company for that machine at \$85.00? A. Yes, sir; \$85.00.

Hon. E. W. Major, Counsel for Informant:

Since 1903 there has been no cut in the price of the Deering machine to you? A. No, sir.



Q. Now, since the formation of the International Harvester Company of America, the company has had no canvassers there, there were no other machines to be sold but their machine, now prior to the time when you sold the Deering which you bought from the Deering Company, the Deering people sent you special men there, didn't they? A. Yes, sir.

Q. And there was a fierce competition going on between the companies which were sellers of the machines at that time, was there not? A. Yes, sir.

Q. Now, the companies during these times would assist the local agent by making him a cut in his machine, didn't they? A. How is that?

Q. The Deering people during that time, that is when this competition was going on between the independent companies, would give you a special cut once in a while on your binder to enable you to make a sale? A. I don't think they did in my case.

Q. How? A. I don't think so in my case.

Q. But they did send their men there? A. Yes, sir.

Q. But since the birth of the International Harvester Company of America the men have quit coming? A. Well, I think they have been there but I have not had anybody on my account except for a gasoline engine or hay presser or something like that.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Was there any refusal to send any men? A. No, sir; I have been asked by the block men if he should send a man.

Q. And what did you say? A. I said if I needed one I would call on him.

Q. Mr. Fuller has there been any increase in the price of harvester machines from 1903 up to a year ago? A. I don't think so.

J. T. WILLIAMS, of lawful age being duly sworn upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. J. T. Williams.

Q. Where do you live? A. Sullivan, Missouri.

Q. How far is Sullivan from here? A. Sixty-eight miles.

Q. How long have you sold harvesting machines? A. I don't remember, I think about back in 1898, something like that.

Q. That would be approximately eleven years? A. Yes, sir; that is about it.

Q. What machine do you sell now? A. The McCormick.

Q. How long have you sold the McCormick? A. Ever since I have been in the business.

Q. What other dealers are there in your town? A. Well, there is a dealer——

Q. What other machines are handled in your town? A. The Deering is handled there.

Q. What else? A. The Acme.

Q. What else? A. That is all I think.

Q. That is the only three machines handled in your town are the McCormick, the Deering and the Acme? A. Yes, sir; well I handle a different mower.

Q. What mowers do you handle? A. I handle the McCormick and the Dane.

Q. Is the Dane manufactured by the International Harvester Company? A. No, sir.

Q. That is you handle both the mowers manufactured by the International Harvester Company and mowers manufactured by other companies? A. Yes, sir.

Q. Was there any increase of prices in harvesting machinery, and by that I mean binders, corn and grain, and mowers from the organization of the International Harvester Company for the season of 1903 up to the season of 1908? A. No, sir.

Q. The prices remained the same? A. Yes, sir.

Q. What was the increase correspondingly for the same in 1908?

A. Well, from \$100.00 on a binder to \$107.50.

Q. Is that the time price? A. That is the time price.

Q. That is from the organization of the International Company up to the season of 1908, the price on binders, corn and grain— A. Corn and grain?

Q. Was \$100.00? A. Yes, sir.

Q. With what off for cash? A. There was five off.

Q. Five off for cash which would make the cash price \$95.00 and the time price \$100.00? A. \$100.00.

Q. There was no change in that up to the season of 1908? A. No, sir.

Q. In the season of 1908 the price of the binder was made for time \$107.50? A. Yes, sir.

Q. And what off for cash? A. Seven and two.

Q. Seven and two? A. No, sir; five and two, making the total seven.

Q. With seven per cent. off, that would make the cash price \$99.98? A. I never figured it.

Q. Mr. Sullivan is your competitor there, is he? A. Yes, sir.

Q. What is the price of the mower now? A. \$38.50.

Q. Is that the time price? A. Yes, sir; that is the time price.

Q. With seven per cent. off for cash? A. Yes, sir.

Q. What was the price during and prior to 1908, from the beginning of the International Harvester Company up to 1908? A. \$36.00.

Q. With what per cent. off? A. With five off.

Q. That is the price of a mower from the season of 1903 to 1908 was \$36.00, with five per cent. off? A. Yes, sir; now I believe the time price of a mower in that time was \$36.00, and the cash price was \$34.00.

Q. In 1908 the price was changed to \$38.50 for time? A. Yes, sir.

Q. With seven per cent. off for cash? A. That is right.

Q. Do you remember what the prices of binders or mowers were, Mr. Williams, just before the International Harvester Company was or-

ganized? A. I don't just remember, but I believe that the time price on the binder the year 1902 was \$105.00, I am not positive about that, but I think you have my contract, and that will show.

Q. That was for the season of 1902? A. Yes, sir.

Q. As compared with \$100.00 for the season of 1903? A. Yes, sir; \$100.00.

Q. Your recollection is there was a decrease in the first year of the business of the International Harvester Company? A. Yes, sir; I think in 1902 the contract was \$105.00.

Q. How about mowers? A. I think the mowers were \$35.00 and \$37.00.

Q. That is \$35.00 in cash? A. Yes, sir.

Q. And \$37.00 on time? A. Yes, sir.

Q. When? A. In 1902.

Q. When in 1903? A. They were \$34.00 and \$36.00.

Q. Who fixes the price at which you sell your goods to the farmer?

A. Who fixes the price?

Q. Yes? A. I fix them myself.

Q. Does anybody else have anything to say about it? A. No, sir.

Q. You sell at whatever price you like? A. Yes, sir.

Q. Can you sell your goods where you like? A. Yes, sir; I always have.

Q. Is there any restriction as to where you sell your goods? A. No, sir.

Q. Have you ever handled the entire line of the International Harvester Company? A. Not the entire line.

Q. You would handle some of their goods and some of the goods of other companies? A. Yes, sir.

Q. And that has been true of the eleven years you have been in business? A. Yes, sir; in fact I don't handle very much but the International Harvester harvesters.

Q. Now, you are handling the Dane mower? A. I handled the Dane mower this last season in connection with the other.

Q. What twine do you sell, International Harvester Company twine altogether? A. No, sir; I sell the Plymouth and International Harvester Company; I usually handle them both.

Q. Whose wagons do you handle? A. The St. Louis Wagon, Weber and Luedinghaus.

Q. You don't handle the International Harvester Company's line of wagons? A. I never have.

Q. What competition is there between you and the other agents of your town now as compared to prior to 1903 in the selling of harvesting machines? A. I don't know that I understand you; it is just about the same, the same man is my competitor, and he handles the Deering and I handle the McCormick.

Q. The competition is now about the same as it always has been? A. Yes, sir.

Q. You handle other agricultural implements besides harvesting machines? A. Yes, sir.

Q. You handle plows, rakes and all agricultural implements? A. All agricultural implements.

Q. What has been the condition as to the price of other agricultural implements, other than harvesting machines from 1903 to 1908?

A. There has been an increase in the price.

Q. How much, Mr. Williams, is the per cent.? A. I don't know as I can tell you; of course, different things vary a little bit.

Q. Give me it approximately? A. Well anyway from ten to twenty per cent.

Q. That is, the harvesting machines between 1903 and 1908, have remained stationary in prices? A. Yes, sir.

Q. But other agricultural implements increased between 1903 and 1908 in that period between ten and twenty per cent? A. Yes, sir; that much, anyway.

Q. How about wagons? A. Wagons have increased more than that.

Q. Do you know about how much? A. Well, I don't know; I know about, I don't remember just how far back, but the same wagon I am selling now that cost me \$59.50 I have bought it as cheap as \$45.00, but I couldn't tell you just how far back that has been.

Q. What is the quality of the harvesting machines that are sold now as compared with the quality of the harvesting machines sold prior to the International Harvester Company's organization in 1903? A. I think about the same.

Q. The quality has continued about the same? A. I think so.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. You handle the McCormick, I believe you said, first in 1898?

A. Yes, sir; somewhere back about that time.

Q. And you handled the machine up until 1902, including 1902, buying from the McCormick Harvester Machine Company? A. Yes, sir.

Q. In 1898 you think you paid \$105.00? A. If I remember right.

Q. Different years, however, the price would vary and you could not tell exactly? A. Yes, sir; I could not tell exactly.

Q. But as a matter of fact, up to 1902, different years the prices would vary on different machines? A. I couldn't tell you that, whether it did that or not.

Q. Well, the McCormick people would send their agent to you and help you to make sales? A. Yes, sir.

Q. And you know in making the sale of a machine they would assist you in the sale and allow you a cut, make you a special price on the machine; didn't they do that at times? A. Well, I don't know about that; I think we settled for these machines whatever the contract showed for that year.

Q. Yes, but they were in competition with the Deering machine at your place? A. Yes, sir.

Q. And those were two different independent concerns? A. Yes, sir.

Q. And the Company would send their men there and the companies would cut the price with each other? A. They might do that yet, but I have to stand the cutting if they do.

Q. But prior to that time the companies could make a cut and you not necessarily have to stand it? A. If I remember right I think I always settled according to the contract I made with them.

Q. But if any cutting is done now on the price of your machine you have to stand it, the company makes you the same price on the machine that it does to all others handling the machine? A. I couldn't tell you that, but I suppose they do; yes, sir.

Q. Has not their agent told you that? A. Yes, sir.

Q. Now, the competition you are speaking of existing between agents simply means the energy that each agent exercises in selling a machine, there is no competition between the companies in cutting the prices to their agents? A. No, sir; I wouldn't think so.

Q. The McCormick and Deering are both manufactured and sold by the same company, are they not? A. Yes, sir.

Q. Now, you say Mr. Sullivan is your competitor? A. Yes, sir.

Q. He sells the Deering? A. Yes, sir.

Q. So the more active you and Sullivan become with each other in competition, the more money the International Harvester Company of America will make, won't it? A. I suppose the more machines we sell, the more—

Hon. Theo. Brace, Commissioner:

That is a mere deduction that I can make as well as he can.

Q. If you sell at a cut price and sell a McCormick machine and Mr. Sullivan cuts the price and sells a Deering machine the International Harvester Company of America does not bear any of the loss at all in their sale, does it? A. No, sir; we sell them at what we please, and if we get a profit we get it, and if we sell at a loss, we have lost it, that is all.

Q. You say you handle almost exclusively the International Harvester Company's goods? A. Only the harvester goods, not their total line.

Q. Now, you say you began to handle a mower other than the McCormick mower last year? A. I handled the Dane.

Q. How is it you did not handle it prior to that time? A. I didn't know anything about it, I guess, I don't know why.

Q. Did the Company object to your handling any other mower except theirs at any time? A. No, sir.

Q. So that the first year the International Harvester Company was in business they cut the price of the binder from \$105 to \$100.00? A. If I remember right that is right, you have my contract here, somebody has, that will show it, but if I remember right, that is correct.

Q. I haven't it, and consequently I don't know; so then it stayed at \$100.00 with the International Harvester Company people until last year, when it was raised, and they raised it \$7.50 in one year? A. Yes,

Q. And that price is a higher price than the Independent Companies ever did sell their machines at? A. As far as I know it is.

Q. As far as you buy them? A. As far as I buy them.

Q. And you say the quality of the machines made by the Independent and made by this Company was about the same? A. Yes, sir; I think so.

(Witness excused.)

L. GRANNEMANN, being duly sworn, upon his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. L. Grannemann.

Q. Where is your home? A. New Haven.

Q. How many miles from St. Louis? A. 66 miles.

Q. How long have you been in the hardware business. A. Been selling implements since about 1875.

Q. How long have you been selling harvesting machines? A. We have sold them from that time on.

Q. Since 1875? A. Yes, sir.

Q. What machines do you sell now? A. I sold out a year ago in 1908.

Q. Up until 1908, what harvesting machines did you sell? A. We have been selling the Deering; in the beginning we sold the Deering, the Plano, the Milwaukee and the Woods.

Q. Since 1903, what machines have you been selling? A. The Milwaukee and the Plano.

Q. Only those two? A. It might have been that we sold the Minneapolis since that time, but I don't remember.

Q. What other machines are sold in New Haven? A. The McCormick is sold, the Deering is sold; I don't know of any others.

Q. Any others? A. Let me see, well, the Osborne is sold.

Q. Any others? A. There are mowers of other makes.

Q. What ones? A. Johnston mower and the Buckeye mowers.

Q. Any others? A. There were some others sold, but I don't remember the names.

Q. What is your territory? A. Well, it is New Haven and tributary.

Q. Where do you sell? A. Sell anywhere we can mostly.

Q. No restrictions in practice as to the territory in which you sell? A. No, sir.

Q. Is there any complaint when you sell away from your territory? A. Not unless it be the party that you happened to strike.

Q. That is, the party near whose town you sell? A. Yes, sir.

Q. I mean on the part of the International Harvester Company, is there any complaint? A. No, we have not had any.

Q. Do you remember in 1905 when your contract had in it an exclusive agency clause requiring you to sell only the goods of the Inter-

national Harvester Company? A. I don't remember particularly the International Harvester Company had that in it, but I remember some other had that in it.

Q. You don't remember whether they had that in prior to 1905, it has been discontinued since 1905? A. They did have it, I think, in the contract, but I don't know what year.

Q. What was the effect of that? A. Sometimes I told them we might sell some other machines, and the agent always told me we need not to mind, that would be all right.

Q. As far as you know, it was never enforced, even though in the contract? A. Yes, sir.

Q. You don't know whether it is in the contract or not now? A. Well, it is not now.

Q. Who fixes the price at which you sell? A. We fix it ourselves.

Q. Does the Company take any hand in fixing the price at which you sell to the farmer? A. No, sir.

Q. You sell at whatever price you like? A. Yes, sir.

Q. What competition is there, then, between you and the other agents of the town? A. They try to sell all they can and we try.

Q. Is there any difference in the competition between now and before the year of the International Harvester Company, before 1903? A. It seems to me we have about the same competition that there was before.

Q. During your experience the competition now is practically the same as it always has been? A. Yes, sir.

Q. Was there any increase in the price of harvesting machines from the date of the International Company's organization in 1903 up to the season of 1908? A. Up to 1908 I think there was.

Q. I say before 1908? A. No; I don't think there was; I think probably the price decreased a little when the International took hold of it.

Q. That is, you think when the International Harvester Company started the price decreased? A. Yes, sir; a little.

Q. Then it remained the same up to the season of 1908? A. Yes, sir.

Q. Do you remember what the increase was? A. The binder now costs \$107.50 without the—

Q. How much discount is there off for cash? A. Five and two.

Q. That is seven per cent. off for cash? A. It is not exactly seven, five and two is not seven.

Q. That is true; then the price of a mower is now what? A. To the best of my recollection, \$38.50.

Q. With five and two off for cash? A. Yes, sir.

Q. Do you remember what the price was between 1903 and 1908, during all that time? A. Well, I think it was nearly the same, it might have been a little less before that time, it was about \$36.00 before that time, it seems to me.

Q. Do you handle corn binders? A. No, sir.

Q. All that you handle are the grain binders and mowers of harvesting machinery? A. Yes, sir.



## CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. There are no binders sold in your community except those manufactured by the International Harvester Company? A. Well, yes; there have been in past years.

Q. Now, I mean? A. At the present time I don't think that any have been sold, but attempts have been made to sell them.

Q. Have they an agent there now? A. Not in New Haven.

Q. When did they have an agent there? A. They had an agent within five miles of our town, right in our locality we call that, pretty near to our place; they have had them several years, but they didn't sell any last year.

Q. In your town no independent company has had an agent for the last number of years? A. They attempted to sell machines, but the people did not want them.

Q. Did they have an agent there; answer that question? A. They had an agent right south of our town.

Q. Did they have one in your town? A. Well, yes; I think they had an agent in the town because he sold some Johnston mowers.

Q. I ask you on binders; is there a single binder sold in your town, or is there an agent representing any binder in your town, excepting that of the International Harvester Company? A. Not that I know of.

Q. You know, as a matter of fact, that there is no such agent, don't you? A. No, sir; I know this, if anybody wanted a Johnston binder we have men in the town that would be glad to sell them.

Q. I don't judge that you are here to argue the case for the Company.

Hon. Theo. Brace, Commissioner:

Just answer the question.

Hon. Charles G. Revelle, counsel for Informant:

Q. You know, as a matter of fact, there is no agent in your county or your town representing any company except that of the International Harvester Company? A. I don't know of any particular one; no, sir; not right in town.

Q. You know, as a matter of fact, there is no agent there who has sold any binders for any other company in the last several years, located in your town? A. Not a harvester; no, sir.

Q. Now, you say there is a person there who sells the Johnston mower? A. They sold them right there in our town, but they were some of the International's agents that did that.

Q. But the independent company has had no agent separate and apart from the agent of the International Harvester Company? A. Not that I know of.

Q. In your community? A. Well, in the community we have had—

Q. In your town? A. In the town; no, sir.

Q. Do you know how many machines were sold last year in that

community, including the territory where the Johnston people have an agent? A. No, sir; I don't know exactly.

Q. You know that the sales of the Johnston machines are comparatively nothing? A. Yes, sir.

Q. When you take into consideration the sales by the International Company, don't you? A. No, there are not many Johnston machines sold, binders.

Q. What did you say the price on the binder was last year? A. Well, \$107.50.

Q. What does that include, does that include the truck and transport? A. No sir; the transport is \$3.00 extra.

Q. What was the price of the machine before 1903? A. Before the International Company was formed?

Q. Yes? A. It ran from \$95.00 to \$100.00, and sometimes was over.

Q. Which included the transport? A. Not always.

Q. That price was fixed to the agent, including the transport, before 1903, wasn't it? A. I don't remember positively about that, but then I know the price ran from \$95.00 to \$100.00, and may be sometimes over.

Q. Whatever price they did fix before 1903 included the transport, didn't it? A. Not always.

Q. Do you mean to say that they made two different prices? A. Yes, sir; we bought the machine without the transport, and with it.

Q. When you bought the machine without a transport, a reduction was made from the regular list price? A. Yes, sir.

Q. And now, if you get the transport with the machine you have got to add the price of the transport to the list price? A. That is just how you call it; if you say \$107.50, of course, you have to add the cost of the transport to the price.

Q. Now, you say there was an exclusive clause in the contracts prior to a certain year, and that your agent explained to you that that did not mean anything? A. I remember particularly of stating one time that I didn't want to violate the contract, if that was the contract and the agent told me, "You need not mind that, because it did not amount to anything; if you want to sell something else go ahead and sell it."

Q. Did you have that clause stricken out of your contract? A. No, sir; I did not because he said it was not necessary.

Q. This agent did not display, in your presence, any written authority to waive that feature of the contract, did he? A. No sir.

Q. Did he explain to you why that clause was in the contract? A. No, I don't think so; we understood it, we supposed it explained itself; I think the statement was in there.

Q. He didn't explain to you the purpose of inserting that and then saying to you after you signed it, it didn't mean anything? A. I told him we didn't want that in because sometimes we might want to sell something else, and he said, "Leave it in there, but if you sell something else it won't make any difference."

Q. So far as he was concerned? A. Well, I don't know; that is what he told me.

Q. You say immediately on the organization of the International Harvester Company that the price of machines decreased slightly. A. Yes, sir.

Q. Do you remember about what that decrease amounted to? A. I don't think it amounted to very much; it seems to me it was a few dollars.

Q. A few dollars on the binder and mower? A. Yes, sir; about that.

Q. Did that price remain the same until 1908? A. To the best of my recollection, yes, sir; 1907 it might have been, I don't remember exactly the year.

Q. Whatever year it was, the increase was made by simply one jump of \$7.50? A. I suppose that is it.

Q. Was the Osborne machine sold in your community in 1903? A. Yes, sir; I think so.

Q. That was a right popular machine there, wasn't it? A. No, sir; it was not a popular machine, it never was a popular machine in our community, but it was sold there.

Q. Quite a number were sold? A. Yes, sir; some of them were sold.

Q. You know, as a matter of fact, that the Osborne machine is made by the International Harvester Company of America? A. At the present time, yes, sir; but it was sold there before it was made by them.

Q. Do you know whether or not the Osborne machine was sold in your community in 1904 and 1905, apparently as an independent machine? A. It was sold before 1904 and 1905, when it was, according to my opinion, as independent machine, and it was sold there afterwards, as you said. I understood it was not made by the International Harvester Company.

Q. You know, as a matter of fact, that even in the year 1905, the Osborne machine was held out to the public in your community as being an independent machine, don't you? A. Well, I don't remember what year, but it was held out as an independent machine.

Q. That was done for two or three years after the organization of the International Harvester Company, wasn't it? A. It might have been a year or two or three, but I don't know exactly how long.

Q. Well, the price at which the harvesting machines are selling now, is that a higher price than you have ever known of their having been sold before? A. At the present price, yes, sir.

Q. Decidedly higher? A. Not as I have ever known; we have paid \$240.00 for one.

Q. You are going away back; I mean within the time when machines were commonly and frequently used by the farmers in the last twenty years? A. We sold them in 1881 for \$310.00 retail, and they cost us about \$240.00 and freight.

Q. How about the last twelve years? A. I don't think they have been any higher than they are now.

Q. In fact, they are much higher now than they were twelve years ago? A. They might be.

Q. What do you handle besides binders and mowers in the way of farm implements? A. We are selling threshing machines.

Q. What? A. Threshing machines.

Q. Whose threshing machines do you sell? A. Rumley's.

Q. Who makes them? A. The Rumley Company.

Q. Is that controlled by the International Harvester Company, or do you know? A. I think not I have never thought about it, because it is the Rumley Company, and it owns that.

Q. What other farm implements do you handle? A. Rakes.

Q. Whose rakes do you handle? A. We have handled other concerns; we have not handled the International.

Q. Never have? A. Once in a while we bought some of them, but not recently.

Q. Did you last year? A. No, sir; I don't remember that we bought an International rake last year, that is to my recollection, but we bought others.

Q. You don't handle wagons, do you? A. Yes, sir.

Q. Whose wagons do you handle? A. We handle the Birdsell wagon and then the Avery wagon.

Q. Did you handle these wagons last year? A. Yes, sir.

Q. Did you handle the Weber wagon also? A. No, sir.

Q. You never handled them? A. No, sir; I don't think we have sold one; we have a wagon, I don't remember the name, but it is not, I don't remember just what the name is, but it is another wagon, we have handled different kinds, but I don't remember that we ever sold a Weber wagon.

Q. Did you say you live in New Haven now? A. Yes, sir.

Q. What is your business? A. I sold out my business in 1908, January first, I go down to the store and work there sometimes, we have a general merchandise store in connection with it.

Q. Are you in any manner working for the International Harvester Company? A. No, sir.

Q. Have neither a present contract nor a prospective one? A. No, sir.

Q. You are not figuring on working for them? A. No, sir.

Q. Who is the general agent in your territory? A. I think Mr. Funston.

Q. Who is your blockman? A. I am not positive who it is at the present time.

Q. Who saw you about coming up here as a witness? A. Mr. Funston wrote me.

Q. When did he do that? A. I got a letter yesterday.

Q. Were you subpoenaed, or did you just voluntarily appear? A. No, I was not subpoenaed by an officer; no, sir.

Q. You were not subpoenaed at all, you voluntarily appeared? A. Well, he asked me to come, he wrote to me and asked me to.

Q. You had not seen any of their representatives before coming up here in the last three or four months? A. I don't remember; I be-

lieve Mr. Funston was there several months ago, I don't just remember when.

Q. He indicated to you then that he wanted you as a witness? A. No sir; I didn't understand it that way.

Q. He didn't discuss the matter with you at all? A. Not as to being a witness, no, sir; I didn't know that I was to be a witness at all.

Q. I believe you stated that you could sell machines at any place you wanted to, your contract designated the territory in which you could sell, didn't it. A. If I am not mistaken, my contract says New Haven and tributary.

Q. How far away from New Haven did you make sale from New Haven? A. Sometimes 15 to 20 miles, I believe.

Q. You construed that contract to mean just what it said, New Haven and trade tributary, 15 or 20 miles? That was the extent of your territory? A. Of course, we sell in that territory, that is as near as we could get at it.

Q. You clearly understand that your right to sell was limited while it was not a definitely fixed territory, yet in a general way, it was a fixed territory, and that you should not encroach on another agent and he should not encroach on you, you understand that? A. No, sir; I did not.

Q. What did you understand by the clause in the contract? A. I understood we could sell anywhere we could make a sale that was convenient; of course, it was not convenient to sell them away off from home.

Q. You understood that to mean a territory within twelve to fifteen miles of your town? A. Yes, sir.

Q. Other agents didn't come into your territory and sell, did they? A. Yes, sir; he did.

Q. What did you do about it? A. Didn't do anything.

Q. Did you make any complaint to the company? A. We spoke about it, but did not expect—

Q. You did complain? A. We happened to speak about it that a man sold in our territory, it was not so much about the selling, but it was about selling it at cost, but we never expected to get any—

Q. But you made a complaint because you regarded that as your territory under the contract? A. No, sir; we complained or spoke about it because he sold it at cost, we didn't make a complaint, but just mentioned it.

Q. Just talked about it with the company and told them you didn't like it? A. He sold right south of us five miles, a man sold a Milwaukee binder.

Q. Did the agent tell you that he wouldn't permit that any more? A. No, sir.

Q. When you told him this man had cut the price on the Deering machine and come into your territory, what did he tell you? A. I don't remember what words he used.

Q. Do you remember the substance? A. No, sir; but he didn't say that he was going to give us any relief.

Q. You were given to understand that it would not be done again? A. No, sir; we did not.

Q. You just made your complaint and silently submitted, even without his saying anything? A. Yes, sir; because we had to.

RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Mr. Grannemann, in the selling of other farm implements between the year 1903 and the present time, what has been the course of prices? A. It has been advancing very much.

Q. I mean farm implements; we will say other than harvesting machines, did they advance? A. Yes, sir.

Q. In comparison, how much has been the advance? A. I know a wagon we bought at \$52.00, they asked us one time \$72.00 for.

Q. That is a forty per cent. increase? A. Yes, sir.

Q. How about other farm implements? A. Nearly all of them have increased in price in that time.

Q. About what per cent.? A. I judge a greater per cent. than the International Harvester Company.

Q. I understand the price of harvesting machines from 1903 to 1908 remained just the same until the season of 1908? A. To the best of my knowledge.

Q. Then there was an increase of approximately from \$100.00, with five per cent. to \$107.50 with five plus two per cent. off? A. Yes, sir.

Q. And other farm implements increased a very much larger per cent? A. Yes, sir.

Q. How big a town is New Haven? A. About 900 inhabitants.

RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. The increase of price on other farm implements was made gradually, but didn't come with a leap and a bound like the increase in harvesters? A. I suppose it was made gradually.

Q. What year was it that you bought wagons for \$42.00 and based your estimate on a forty per cent. increase? A. I couldn't tell you what year, little before that, but I know we bought wagons for \$52.00, and they afterwards asked us \$72.00 for them.

Q. You know it was long prior to 1903? A. I don't know whether it was, but I don't know the year exactly, I know there was quite an increase in the cost of implements of all kinds from that time on.

Q. You don't know what the price of wagons was in 1902 or 1903? A. No, sir.

(Witness excused.)

At this point a recess was taken until 2 p. m., at which time the examination was resumed, as follows:

SAMUEL F. ESEMAN, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is Samuel F. Eseman? A. Yes, sir.

Q. Where is your home? A. Farmington, Mo.

Q. How many miles is Farmington, Missouri, from St. Louis? A. About eighty-five miles.

Q. How long have you been selling harvesting machines in Missouri? A. Since 1901.

Q. That is for the last eight or nine years? A. Nine years, including this year.

Q. What line of harvesting machines have you handled during that time? A. The Deering, sell the Deering exclusively.

Q. Are you selling it now? A. Yes, sir; and we have sold Champion repairs there, but have not sold any Champion machines, just repairs.

Q. Now you sell the Deering at Farmington? A. Yes, sir.

Q. Is there any other agent that sells the Champion at Farmington? A. Yes, sir; there has been two years ago.

Q. But not now? A. No, sir.

Q. What other machines are sold at Farmington? A. The Milwaukee and McCormick.

Q. Those are the only ones that are at Farmington? A. Except the Independent machine has been sold there the Standard mower, I believe.

Q. Who sells that? A. A man by the name of F. P. Claywell.

Q. What binder does he handle? A. He did sell one or two Johnstons, I think.

Q. The Johnston binder and what mower? A. The Standard mower.

Q. Any other machines? A. No, sir; not that I know of; I just know those two, just hearing them speak of them.

Q. You handle the McCormick? A. The Deering.

Q. The McCormick is handled there? A. Yes, sir.

Q. The Champion is not handled there? A. No, sir.

Q. The Plano is not handled there? A. Well, of course, it is not handled, any man that wants a Plano machine he can get it.

Q. He can get any Johnston or Woods? A. Yes, sir.

Q. If any man wanted a Johnston, Woods or Aeme, you would get it for him? A. Yes, sir.

Q. In other words, you are in business to sell any machine that any farmer wants? A. Yes, sir; to make money.

Q. If any man wants any machine of any make you will sell him?

A. Of course, I will try to sell a Deering to him, but if he doesn't want that I will get something else for him.

Q. On the question of repairs, you have how many dollars worth



of repairs for the Deering machine? A. I don't know exactly; but I judge somewhere between \$150.00 and \$200.00 worth.

Q. Do you have to pay for those? A. No, sir; only what we sell.

Q. That is, you can order as much repairs for your machine that you handle, that you want, and without cost to yourself? A. Yes, sir.

Q. Except for freight; you have to pay the freight? A. Yes, sir; we have to pay the freight.

Q. If you thought that the farmers of your locality needed \$300.00, \$400.00, \$500.00, \$600.00 or \$800.00 or \$900.00 worth of repairs to keep a stock on hand that would supply them, you order it and get them without cost to yourself, is that the plan of business? A. Do you mean that I could get that many there without any cost to me?

Q. Yes. A. Yes, sir; all I would have to pay would be the freight.

Q. In other words, the repairs after they are ordered by you are kept by you without any cost to yourself until you actually sell them? A. Yes sir.

Q. And then you account for them? A. Yes, sir.

Q. And if they lay there until they become junk, it is no cost to you? A. No, sir; they usually make what they call a cleanup, and we ship back what they call unsaleable goods, that is a drag on the net; of course, if anybody wants them, we can get them any time.

Q. Do you know whether or not that is also the same plan of business with the McCormick of Farmington? A. I know it is with the McCormick, because we are right across from the house there; of course, I couldn't tell you about the Milwaukee man, but I know it is with the McCormick, and I know it is with the Champion, because he was right across the street, but the Milwaukee, I couldn't tell you, he is farther away, and I paid no attention to him.

Q. Now, then, when you take orders for the Champion machine, which now you are not the agent for, can you get as many repairs as you like for the Champion machine, and without cost to you? A. We have the agency for the Champion.

Q. Then let us take the Plano, nobody has the agency for the Plano in Farmington? A. No, sir.

Q. If there is no agency for the Plano machines in your territory you can get as many repairs as you want for the Plano machine as you can for the other machines without cost to yourself? A. Yes, sir; that is my understanding; I have never tried it, but I am satisfied that is what the block man tells us.

Hon. E. W. Major, counsel for Informant:

Objects to this testimony as being hearsay.

Hon. Selden P. Spencer, counsel for Respondent:

If you want me to cut out anything that the blockman told an agent, I have no objection.

Hon. E. W. Major, counsel for Informant:

He says it is his understanding.

Hon. Selden P. Spencer:

Where did you get that information? A. From LeRoy Miller the blockman, who calls on us regularly.

Hon. Selden P. Spencer, counsel for Respondent:

Do you make the objection.

Hon. E. W. Major, counsel for Informant:

No, sir.

Hon. Selden P. Spencer, Counsel for Respondent:

Q. Who fixes the price for harvesting machines in your territory, in Farmington? A. You mean the retail price?

Q. The retail price at which they are sold to the farmers? A. We usually fix that to suit ourselves.

Q. Does the Company have any part in the dictation of the matter? A. Never to me.

Q. That is you sell at what price that you like to the farmers, the harvesting machines that you deal in? A. Yes sir.

Q. By harvesting machines I understand grain binders, corn binders and mowers, is that your understanding? A. I have never sold any corn binders; I have sold wheat binders and mowers.

Q. That is grain binders and mowers? A. Grain binders and mowers.

Q. Are you restricted as to where you sell? A. No, sir; I have sold different places. A man comes there, and if I get hold of him it makes no difference where he is, if I can sell him I will sell him.

Q. That is, you sell wherever you can sell a machine? A. Yes, sir.

Q. Does it make any difference if he happens to be close to the territory of another agent? A. It never has with me.

Q. Do you know whether there was any increase in the price of harvesting machines from the season of 1903, that is, when the International Harvester Company was organized to the season of 1908, not including 1908, up to 1908? A. No, the increase came in 1908 and 1909.

Q. That is for the season of 1908 and 1909? A. Yes, sir; that is last year and this year.

Q. So that I understand you to say there was no increase in price in harvesting machines from the time of the incorporation of the International Harvester Company from 1903 up to the season of 1908? A. No, sir; I think not.

Q. I am right in that, am I? A. Yes, sir; if there was it was very slight, I couldn't say exactly, but I don't think there was any, but I know there was last year and this year.

Q. What was the increase last year and this year? A. Well, the increase was about, let me see, between \$7.00 and \$10.00 on a binder.

Q. Let us get the figures; you sell a binder now, that is last year and this year, six-foot binder, which is the regulation binder at what price? A. \$125.00 and \$130.00.

Q. That is what you sell it to the farmer for? A. Yes, sir.

Q. Now, you have to pay for that binder alone, how much? A. I can't exactly, it is either \$107.50 or \$110.50, with seven per cent. off for cash, there is a truck in there, that is \$3.00 extra, I don't know whether—

Q. That is the binder itself is \$107.50, with the truck added it is \$110.50? A. I think that is it and the truck is \$3.00 additional.

Q. What does the mower sell for about? A. You mean the retail price?

Q. No, sir; I mean to you, the price to the agent? A. \$38.00.

Q. With seven off for cash? A. Yes, sir.

Q. That is the present price of the binder is— A. \$38.00, it may vary a dollar or a half dollar.

Q. \$38.00 or \$38.50? A. Yes, sir; I know it is not over \$39.00.

Q. Somewhere between \$38.00 and \$39.00? A. Yes, sir.

Q. That is the price of the grain binder itself, you don't handle the corn binder? A. No, sir.

Q. It is now \$107.50 with seven off for cash? A. Yes, sir.

Q. And the price of the mower is \$38.00 or \$39.00 now with seven off for cash? A. Yes, sir.

Q. What was the price during the years 1903 to 1908 when you say the price was stationary? A. In 1903, now the 1901 settlement, as for the time price, it was \$102.50 on a grain binder.

Q. In 1901? A. Yes, sir.

Q. In 1901 it was \$102.50? A. And the mower was \$36.00, the time price.

Q. Now in 1903? A. Well, I don't know exactly.

Q. That was the first year after the International Harvester Company was formed? A. That is my recollection but I never paid much attention, but it must have been somewhere about the same.

Q. Was it any higher? A. I don't think so.

Q. That is as far as you can recollect the price before the International Harvester Company was organized was for binders \$102.50, the time price? A. Yes, sir.

Q. And \$36.00 for mowers? A. Yes, sir; there might have been a slight raise or fall, I don't know, of course in 1908 and 1909 is when we noticed the raise, that is to amount to anything.

Q. I understand you to say that that price either decreased a little in 1903 or remained stationary until the raise for the season of 1908? A. Yes, sir; I know that it was either way but it was so small that we paid no attention to it.

Q. What competition is there in the sale of goods in Farmington, harvesting machines? A. It has been about all the same since I have been in the business, it is about as keen as it always was, everybody tries to sell as many as he can.

Q. The competition is as keen now as it was before in 1903? A. Yes, sir.

Q. You have been in business since 1901? A. Yes, sir.

Q. You had about two years before the International Harvester Company was formed and seven years afterwards? A. Yes, sir.

Q. What is the character of the goods, the harvester goods, furnished now, as compared with the character of the goods furnished before the International Harvester Company was formed? A. The character you mean in the make?

Q. The quality? A. Well, it is just as good, if not better, there are some improvements.

Q. In your business do you handle other farm implements? A.

Yes, sir; we build farm wagons ourselves and we manufacture some plows and sell buggies and farm implements.

Q. Do you handle disc harrows and rakes and drills? A. No disc harrows, no, sir.

Q. Cultivators? A. No cultivators, but we handle rakes.

Q. What has been the course of the prices in those other farm implements that you handle since 1903 up until now? A. Well, of course everything has advanced, even in our wagons.

Q. How much in per cent? A. Well, we have advanced in wagons about fifteen per cent.

Q. How much in other farm implements? A. Well, now along about ten per cent, somewhere along there, of course we just sell a few chilled plows, they have advanced about ten per cent.

Q. How about the presence of canvassers and experts, do they come to your territory? A. Canvassers and experts?

Q. Yes? A. Yes, sir; canvassers do, but I never had an expert there because I never called on them for one, the canvassers came, yes, I have had experts in the gasoline engine line.

Q. Is there any difference in the frequency or character of the service of canvassers and experts since 1903 from what it was before? A. No, sir.

Q. Just as efficient now as it was then? A. Yes, sir.

Q. And just as efficient then as it is now? A. Yes, sir; sometimes they come more oftener than we want it, we have not got time to go with them.

Q. If a machine that you sold any time during the year breaks down or does not run and you cannot fix it yourself, what do you do? A. We call on the Harvester Company to send an expert to fix it.

Q. Do you do that for any machine that you have sold? A. Yes, sir.

Q. And the expert comes? A. Yes, sir.

Q. Is there any charge to the farmer for that? A. All they ask is for the farmer to furnish transportation, to come after the man with a buggy, but the work costs nothing.

Q. No transportation from the city to the town? A. No, sir.

Q. They expect a farmer to drive him out to the farm? A. Yes, sir.

Q. Except for that there is no charge whatever for the service? A. No, sir.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Mr. Iseman, you and your father, your firm there, have been engaged in the handling of farm implements for quite a long time, have you not? A. Yes, sir; my father has been there I guess about 35 years.

Q. Your father is still living and a member of your firm? A. Yes, sir.

Q. You handled the Deering machine before 1903? A. Yes, sir.

Q. You know as a matter of fact that prior to 1903 there was

never a year but what that machine had some improvements on it from one year to the other, don't you? A. You say before 1903?

Q. Yes, sir; every year they made a certain improvement on that machine? A. No, sir; not on the mower there was not any, and slight changes on the binder, the binder has varied some but not very much.

Q. I mean prior to 1903, you know from 1900 up to 1903 each year there was a change made on both the binder and mower? A. I don't think so, there might have been some few little changes, that is nothing, just hardly noticeable or to speak about.

Q. Those improvements——? A. There might be some little improvements, of course I didn't pay very much attention to it, there was not much change in the binder.

Q. Those improvements were impressed on the agents with a view of impressing them on the prospective purchaser, were they not, before 1903? A. As talking points.

Q. They always mentioned that the machine of 1903 was an improvement over 1902 and that 1902 was an improvement over 1901, that was always mentioned between you and the block man and the general agents? A. Sometimes, the Deering has never varied very much since I have had it.

Q. They did make material improvements prior to 1903 after you began handling that machine? A. How is that?

Q. They made material improvements on that machine prior to 1903 and after you began handling their machine? A. Not very many, if any I can't remember, the machine business was comparatively new to me, and I couldn't say, that has been about nine years ago, I was just going into business and there was considerable to be learned about a binder and I couldn't tell you.

Q. As a matter of fact you don't know what improvements were placed on machines from 1900 to 1903? A. No, I do not.

Q. You do know as a matter of fact, do you not, that since 1903 that machine has remained practically the same? A. Well it is like I told you a while ago, there have been slight changes all along, the machine has varied very little, but some, I know one article in the last four years, they have changed the reel.

Q. You know, as a matter of fact, since 1903 up to the present time the improvements that have been placed on the Deering machine have amounted to very little, you have not been able to use the argument as to their improvements to any great advantage in making sales, have you? A. No, sir.

Q. And that is true of the McCormick machine? A. I don't know anything about that.

Q. You never heard of any material improvements being placed on the McCormick machine since 1903? A. I have never taken the trouble to find out, I don't know anything about the McCormick at all.

Q. Don't you know that since 1903 this company has not used the same effort to improve their machine as the independent companies did use prior to 1903? A. Well I don't know about that, the machine has always given good satisfaction.

Q. It did before 1903, didn't it? A. It is mighty little trouble, I never had any trouble with it.

Q. Well you did not before 1903, either, did you? A. No, sir.

Q. Now before 1903 when the machine was priced to you by the company that price included the trucks, the transport, didn't it? A. Yes, sir.

Q. The list price of the machine included the trucks or transport? A. Yes, sir.

Q. That is not true now, is it? A. It has not been in the last two years, I think.

Q. It has not been since the International Harvester Company has been doing the business? A. Oh, yes; it has until the last, I think, two years, possibly three.

Q. The last two or three years they have made the trucks an additional price to the machine? A. Yes, sir.

Q. Then in saying that they raised the price from \$95.00 to \$107.50, you have to add to that the price of the trucks, don't you, to estimate the increase? A. From \$95.00 did you say?

Q. Yes? A. You would take off, the time price was \$102.50.

Q. Up to \$107.50? A. The time price was \$102.50.

Q. Was that in 1902? A. That was my settlement in 1901, my settlement sheet will show.

Q. It is now \$107.50? A. \$107.50, yes.

Q. In addition to that you have had to add how much, \$3.50? A. \$3.00 for the trucks.

Q. Which originally was included in the \$102.50 price, wasn't it? A. Yes, sir.

Q. Now all farm implements have increased in price since 1903, haven't they? A. I am not familiar only as I tell you, with the chilled plows and wagons and hay rakes.

Q. Such as you handle? A. Yes, sir; we never handled any cultivators or disc harrows or anything like that.

Q. Those increased prices came gradually, didn't they? A. Well, some of them came gradually and some of them came pretty quickly.

Q. Well, I understand that, but they never came by a leap and bound like the increase in the price of a binder did, did they? A. Well, I don't know about that, you know it is pretty hard to keep a line on all that stuff.

Q. Don't you know as a matter of fact that the prices of wagons and of other farm implements have just, from year to year, step by step, increased, rather than going for a period of six or seven years and just jumping up, say one-tenth of the price? A. I know wagons have because manufacturing those I know have gradually from year to year had to raise the price.

Q. And hasn't that been true on all farm implements excepting binders and mowers, that that increase has come gradually? A. I don't know about the other farm implements except as I told you, the only thing we sell, the chilled plows.

Q. On those the increase has come gradually? A. My father

usually looks after the chilled plow business and I don't know whether it came in one year or two years.

Q. But it did not wait six years to come all at once? A. No, sir; I think not.

Q. Has the Osborne machine been sold down there in our town, Farmington, since 1903? A. I couldn't tell you.

Q. It was sold before 1903? A. It was sold down there a year or two since I have been handling the Deering but I couldn't tell you what year it was.

Q. But it was sold before 1903, wasn't it? A. I couldn't tell you, it has been sold in there but exactly when I couldn't tell you, I know that it has been since I have been in the Deering business.

Q. Do you know whether or not the Osborne machine was sold there in 1903, 1904 and 1905 ostensibly as an independent machine, not connected with the International Harvester Company? A. No, sir; I couldn't tell you, it may have been, but I couldn't tell for certain whether it did or not.

Q. Has the Woods machine been sold there since 1903? A. I think not.

Q. Was it before 1903? A. Why, it has been a good long while, I don't remember when there was a Woods machine sold, they have dropped out of there several years ago.

Q. From your general experience with the machine business and the sale of machines, don't you know as a matter of fact that although the price of raw material that went into the machines increased from 1903 up until 1907, that these prices were not increased by the International Harvester Company until the International Harvester Company had gotten control of the Osborne machine, the Woods machine and every other formidable competitor that they had? A. Well, sir; I couldn't tell you, I couldn't tell you what year they took over the Osborne machine because I paid very little attention to it.

Q. But the only increase they have made has come simply as one single increase and that came in 1908? A. In 1908.

Q. You speak about the repairs, you never had any trouble in getting repairs for the Deering machine before 1903, did you? A. No, sir.

Q. If you wanted to keep in stock \$100 or \$200 or \$250 worth of repairs they would send those repairs to be held by you and sold on commission, wouldn't they? A. Yes, sir.

Q. They did identically the same thing before 1903 that they have since? A. With the exception of one thing, my first year, in 1901, I couldn't buy sections from the Deering people on commission, that is sections and rivets I had to buy outright.

Q. That related to nothing but sections and rivets? A. Sections and rivets, there might have been one or two other articles, I don't know.

Q. But they were not used very much? A. All sections——

Q. I mean outside of the sections and rivets, they are used very frequently? A. That was my first year, 1901.



Q. But aside from that you had no more trouble in getting repairs before 1903 than you have had since? A. No, sir.

Q. And on the same terms? A. Yes, sir.

Q. You never had to beg the Deering people to send you repairs before 1903? A. No, sir.

Q. All you had to do was to order them? A. Yes, sir.

Q. Since 1903 the International Harvester Company has been willing to send you any kind of repairs that you thought you could sell? A. They send me any kind of repairs that I want to carry in stock that I think will be needed or will come handy in case of a breakdown, about what I would think would be practicable stuff.

Q. They are just as anxious to sell what they make as you are? A. Well, I guess they are.

Q. Now Mr. Iseman, is the Johnston machine sold at Farmington?

A. It was year before last, I don't know whether there was any sold this year or not.

Q. Who sold the Johnston year before last? A. Mr. John D. Claywell, the Johnston binder.

Q. Do you know how many of those machines he sold that year?

A. No, sir; I do not.

Q. In fact you don't know of his selling a single one, do you?

A. Yes, sir; I have heard he sold one or two, I don't know whether he sold those all the last year or whether he sold one last year and one the year before, I have heard he got out two.

Q. In the course of the last two years you have heard of the Johnston being sold once or twice? A. Yes, sir.

Q. The Acme has no agency there? A. No, sir.

Q. There is no competition there except between the agents of the International Harvester Company? A. No, sir; none that I know of.

Q. You have not found any company outside of the International Harvester Company fighting you in your sales down there, have you?

A. I have not found any company fighting us in our sales.

Q. Yes, nothing to prevent your making a sale and making the sale themselves? A. Only this man with the Johnston and Standard mower.

Q. They sold one or two? A. I think he sold one, I don't know whether he sold any more this year or not, he may be out of business, I don't know.

Q. The competition that exists is one purely between the agents of one company and that is the International Harvester Company, isn't it? A. Yes, sir.

Q. It does not matter whether you make a sale or the other agent, the International Harvester Company gets the same results? A. Well, I guess they do, I don't know, I know each one of us tries to make the sale, I know if McCormick makes a sale it does not help me any.

Q. Before 1903 these independent companies were very solicitous about making sales, they sent their solicitors and their canvassers in there and aided you in making sales, didn't they? A. Yes, sir.

Q. Now at that time which company besides the Deering was represented at Farmington? A. Well, there was the McCormick, the

Champion, the Milwaukee and sometimes the Plano, and sometimes it was not, one fellow would keep it a year or two and the same way with the Champion.

Q. At that time each of these companies kept their solicitors and their canvassers there quite a good deal of the time, didn't they? A. Well, I don't know about the rest of them, only I know the fight has been principally, being right there, with the McCormick, the Champion, and the Deering, I know that they have amongst these three, of course the others were away and I never paid much attention to them.

Q. But before 1903 these three companies were fighting pretty fiercely, weren't they? A. Well, competition, yes.

Q. Each of the companies had their solicitors and canvassers there helping you fight the other company? A. They would be in and out.

Q. And they were in pretty often, too, weren't they? A. Well I don't know what you call pretty often, what would you call pretty often?

Q. I mean often enough to absolutely help you make any kind of fight against a competitor when it was necessary? A. Yes, sir; any time we called on them.

Q. You have not found this company sending as many solicitors and canvassers there since 1903 and having these canvassers engage in the same kind of fierce battle among themselves as you did before 1903, have you? A. Well, I can't say that we have, but it has been our own fault because we don't want them, they have been offered to us and we would not accept them.

Q. But they have not sent them there, have they? A. No, sir.

Q. Before 1903 they did voluntarily send them there? A. Well, voluntarily, yes, they would come in, and if we had time to go out we would go and if not they would leave town.

Q. And lots of times if you didn't have time to go out before 1903 they would go out themselves? A. No, sir; well may be once or twice.

Q. They have never done that since 1903? A. Well, they will do it.

Q. They have not done it? A. The canvassers offered to do it if we want them to.

Q. They have not done it? A. No, sir; we never asked them to.

Q. Before 1903 did you take in any old machines in selling new machines? A. No, sir; I never did take in any.

Q. Did you have the company at any time reduce the price to you before 1903 because you had to engage in a fierce battle with a competitor in order to make a sale? A. Reduce the price to me.

Q. The list price? A. Sometimes when a binder was carried over, if it got dusty, was set out with the samples and got dusty.

Q. That was before 1903? A. Yes, sir.

Q. Have they done that since? A. Yes, sir.

Q. How often? A. Well, I bought three mowers last fall at about \$2.00 reduction on the mower because they were carried over and I sold them at a \$2.00 reduction to the farmer.

Q. Before 1903 when the company sent its canvassers in there

and he had to go up against the canvasser of some other company and they would get into a battle on a certain sale, and the canvasser of your company cut the price to the prospective purchaser, the company that he represented and that you were selling for frequently made a reduction in the list price to you, didn't it? A. Well, I never engaged much in the cutting price business.

Q. The company did do that occasionally before 1903 with you, didn't they? A. I don't know whether they did or not, they may have in one or two instances.

Q. They have never done it since, have they? A. Not that I know of.

RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Do you know of any instance where they did it prior to 1903?

A. No, sir; I couldn't name any, the machine business lasts only one, two or three months, and is gone and I couldn't tell you, give you an instance, but I say they might have done it, I know sometimes we would get to figuring around and may be throw in a hundred pounds of twine.

Q. But it has been the same since 1903 as it was before? A. Yes, sir.

Q. Are sections and rivets things that are used very frequently?

A. Yes, sir; sections are used very frequently, especially in mowers.

Q. I understand you to say before 1903 you couldn't get such repairs as sections and rivets without buying them outright? A. The year 1901, I know, my first year, I know I couldn't I don't know about 1902, but I am positive about 1901.

Q. In 1901 you know that you could not get those repairs without buying them outright? A. Yes, sir.

Q. Since 1903, since they sold to the International Harvester Company, you know that you can get any amount of repairs that you need on commission? A. Yes, sir.

Q. Do you know as a matter of fact, that the International Harvester Company of America never did acquire the Woods Machine Company? A. I couldn't tell you whether they have or not, I don't know.

Q. Do you know, as a matter of fact, that the Osborne was acquired in 1904? A. I couldn't give you the year, it never interested me and I never paid attention to it.

Q. How many machines did you sell last year? A. I sold two binders.

Q. How many did you sell the year before? A. I think I sold three.

Q. And the Johnston sold two? A. I don't know whether it was one or two.

RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. You won't say that during the years 1898 and 1899 that these companies would not send you these sections and rivets without buying

them, would you? A. I don't know anything about that, 1901 is my first year in the machine business.

Q. That is the only year that you know of that they wouldn't do that? A. Yes, sir; that was my beginning in the machine business, 1901.

Q. Do you know whether that was so in 1902? A. I couldn't say positively.

Q. You never tried to get them to do that? A. I don't know whether I did or not.

Q. Do you know whether you tried to get them to do that in 1901 or not? A. Well, he told me, "That is the only way we sell them," he says, "These are sold outright, you have to put in a small stock."

Q. You don't know whether that was the rule in 1902 or not? A. I couldn't say whether it was or not.

(Witness excused).

HENRY HERMAN, of lawful age being duly sworn upon his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. Henry Herman.

Q. Where do you live? A. Farmington, Missouri, St. Francois county.

Q. How many miles is Farmington from here, from St. Louis? A. Eighty-four miles.

Q. You are in the hardware business down at Farmington? A. No, sir.

Q. What business are you in? A. Blacksmith.

Q. You sell harvesting machines? A. Yes, sir.

Q. How many years have you sold them? A. Sold the first one in 1884.

Q. That is about 25 years ago? A. Yes, sir.

Q. What machines have you been selling for the last ten years? A. The McCormick.

Q. Altogether? A. Altogether.

Q. Did you sell the McCormick before the International Harvester Company was formed? A. Yes, sir.

Q. And have you been selling them since? A. Yes, sir.

Q. Are there any other machines sold at Farmington? A. Yes, sir.

Q. What others? A. The Champion and Deering, the Osborne and Milwaukee and the Plano.

Q. Are they all sold there now? A. No, not all now.

Q. Is the Johnston sold there? A. No, sir; not now.

Q. Or the Aeme? A. No, sir.

Q. You don't ever remember the Johnston having been sold there? A. No, sir; I don't remember that.

Q. Who fixes the price at which you sell machines? A. We generally do.

Q. You do? A. Yes, sir.

Q. When you sell to the farmer do you sell them at any price you like? A. Yes, sir; sometimes we traded for old machines, and sell them at our own price.

Q. Sometimes you trade for old machines and sell them at your own prices? A. Yes, sir.

Q. You make whatever arrangements you want with the farmer yourself? A. Yes, sir.

Q. Does anybody attempt to exercise any authority over you in that matter?

Hon. E. W. Major, Counsel for Informant:

Objects to the question as leading.

Hon. Theo. Brace, Commissioner:

The manner is objectionable, ask him questions that he can answer of his own knowledge.

Hon. Selden P. Spencer, Counsel for Respondent:

Q. What is the territory that you have? A. Farmington and vicinity.

Q. How far does that territory extend? A. We have sold them as far as fifteen miles from here.

Q. What are the limitations on where you sell? A. There is no limit to it, whoever comes there and buys we sell them.

Q. Suppose a man comes from near another town? A. Why, we have always sold them.

Q. Is there any competition between you and the other dealers in that town? A. There always was, yes.

Q. How does that competition now compare with what it was before 1903?

Hon. E. W. Major, Counsel for Informant:

Objects, let the witness state what the competition in 1903 was, then the commissioner will tell it is not for the witness to conclude. It is also immaterial.

Hon. Theo. Brace, Commissioner:

Objections are overruled.

Q. How does competition now between you and the other dealers compare with the competition prior to 1903? A. Well, it is about the same, only they are not selling as many machines there.

Q. The competition is about the same? A. Yes, sir.

Q. As you come into competition with other machines, with other dealers, there, what is your course of business in regard to prices, have you fixed prices or do you change your prices? A. We sell them the way we want to, we make our own price on them.

Q. That is, the price to one farmer is different from the price to another? A. No, sir; but sometimes we make a trade, you know.

Q. You mean put the price or give something in addition? A. Give something sometimes in addition.

Q. Was there any increase in price in your territory in harvesting machines between 1903, that was the date when the International Harvester Company was organized, and 1908? A. No, just the same.

Q. What increase was there in 1908, that was last season, and

this season? A. About \$7.50, something like that, I don't remember, probably \$10.00.

Q. What is the price now of a binder, grain binder? A. \$107.50 I think.

Q. With what off? A. Five and two, I think.

Q. Is it the same for corn binders? A. I have not sold any corn binders.

Q. What is it for a mower? A. A mower is \$38.00.

Q. And with the seven off? A. The same off.

Q. What was the price before 1908 from 1903 to 1908? A. \$100 and \$105.00 I think.

Q. That is \$100 cash and \$105.00 time? A. Yes, sir.

Q. For the binders? A. Yes, sir.

Q. And how much for the mowers? A. \$34.00 and \$36.00.

Q. \$34.00 for cash and \$36.00 for time? A. Yes, sir.

Q. Do you also deal in other farm implements, cultivators? A. Yes, sir.

Q. Harrows? A. Yes, sir.

Q. And other implements that the farmer uses? A. Yes, sir.

Q. What has been the course of prices in other farm implements between 1903 and 1908 and 1908 and 1909? A. They have advanced.

Q. How much in per cent? A. Probably five per cent.

Q. Has that been the average advance or is the advance less or more than that? A. It is about the average.

Q. Take wagons, for example, what has been the advance in wagons? A. Wagons, I think, went up ten per cent.

Q. Do you know what the advance has been in cultivators? A. About one dollar a piece, \$1.05 a piece, I think.

Q. Since when? A. Since 1908.

Q. When? A. The last two years.

Q. Was there any advance before then? A. No, sir.

Q. What does your cultivator sell for? A. Different prices, different makes, you know, we sell some at \$17.00 some at \$19.00 and some \$20.00 and some \$26.00.

Q. Do you remember before 1905 when there was an exclusive agency clause in your contract? A. I think there was.

Q. What was the practical effect of that clause? A. We paid no attention to it, we bought other goods and they never said anything.

Q. Is there such a clause there now? A. I think not.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Mr. Herman, how many dealers have you in Farmington in binders and mowers? A. At present?

Q. Yes? A. There is only three now.

Q. Give me their names, will you? A. Well, Iseman, Alexander and myself.

Q. You three parties have handled farm implements and machinery for some time, have you not? A. Yes, sir.

Q. In fact, without throwing any bouquets at you, you three people do the farm implement business in that town and in that community, don't you, the big bulk of it? A. Well, there is Mr. Claywell, he sold two.

Q. Mr. Claywell's farm implement business consists largely of simply selling lawn mowers and such as that in town? A. He sold more last year, up until this year.

Q. He has never been an active competitor of yours with the farmers, has he? A. To some extent.

Q. He has not been such a competitor as the other two parties, Mr. Alexander and Mr. Iseman, has he? A. No, sir.

Q. The truth of the business is, his business is limited largely—  
A. Well, he has quit now.

Q. But even the last year or two his business was limited largely to the town trade? A. No, sir; the country trade.

Q. He sold but very few farm implements, did he? A. He sold a good many.

Q. The sales did not compare with yours and Alexander's and Iseman's? A. Not the last year, but he sold I think the year before last fifteen mowers.

Q. The three parties who really have the trade in that town, in that community have been secured as agents of the International Harvester Company haven't they? A. Yes, sir.

Q. There is not an independent concern selling machines at Farmington now, is there? A. Not right now, there was though.

Q. The agent they had, however, was such an agent—— A. The Johnston was sold there, Mr. Claywell sold the Johnston as a few of them.

Q. He was not as I say, one of the principal dealers in farm implements in that place? A. Well, no, he was not, but he sold as many mowers as we did that one year.

Hon. Theo. Brace, Commissioner:

You will have to speak a little louder.

A. He sold as many as we did one year.

Hon. Charles G. Revelle, Counsel for Informant:

Q. What year was that? A. I don't remember, two years ago, I think.

Q. Was that the Johnston mower he was selling? A. The Johnston and the Standard.

Q. The next year after he had done that the International Harvester Company sent in some additional solicitors and canvassers there? A. No, sir.

Q. They wanted to, didn't they suggest to you that they would like to send some in? A. No, sir; they send some every year.

Q. They were very active next year after these Johnston mowers had been sold, were they not? A. Not any more than before.

Q. How many years since 1903 has the International Harvester Company sent you a canvasser? A. Every year.

Q. Has he remained with you as long as the canvasser did before 1903? A. Yes, sir.

Q. At the time this company had a canvasser there helping you



they also had canvassers there helping their other agents, didn't they?

A. Yes, sir.

Q. The competition that exists there in that community is simply the competition between you local agents? A. There was always competition.

Q. Before 1903 you had the competition between these different companies, didn't you, and each had representatives there fighting each company, before 1903? A. Well, I don't know as they fought each other much, of course, they all tried to sell goods.

Q. And each company had its man there on the ground and you had a great many contests on your sales there, you would have a solicitor from your company, the other company would have another solicitor there, and you people were doing all you could to get that purchase, were you not? A. We do the same now.

Q. Did you have any field tests before 1903? A. No, sir.

Q. Do you mean to say that when the International Company sends one of their solicitors there, saying he is the McCormick solicitor, and when they send another one, saying he is a Deering solicitor, that these fellows get out and do the same kind of battling that they did before 1903 when they were representing independent companies? A. That I don't know, they work for us, they do the best they can to make the sales the same as they did before.

Q. Before 1903 the prices on the machines were frequently cut were they not? A. Do you mean from the company.

Q. Yes? A. Or the dealers?

Q. Both? A. They were cheaper before they went into the International Harvester Company than afterwards, that is they were higher, I mean.

Q. Before? A. Yes, sir; the first year of the International Harvester Company we contracted with them they were, the binders and mowers were lower than they were before.

Q. That was the first year after they had brought about this organization? A. Well, I think it come in 1902 and the first contract was in 1903.

Q. They reduced the price then? A. Yes, sir.

Q. That was before they had gotten control of the Osborne and the Minneapolis machines, wasn't it? A. I don't remember.

Q. The Osborne used to be quite a competitor down there for these other companies, wasn't it? A. No, not to a great extent.

Q. Well there were a great many of the Osborne machines sold down here, were there not? A. There has not been any sold for some time.

Q. Before 1903? A. There were some sold, yes, sir.

Q. During the year 1903 there were a number of them sold, were there not? A. I don't remember.

Q. Now don't you remember during the year 1903 that the prices on other farm implements were increased? A. 1903?

Q. Yes, sir? A. I don't remember whether they were or not, we sold the Hoosier drill, that cost us more this year than last year.

Q. Since that reduction was made in 1903 and since this Inter-

national Harvester Company has acquired the Osborne and Minneapolis binder and mower you have never known of a decrease being made in the price, have you? A. No, it is the same.

Q. Until 1908, when they by a leap and a bound, went up \$7.50 or \$10.00? A. Yes, sir.

Q. Now during this time the prices on other farm implements were gradually increasing, were they not? A. No, sir; I don't think they were much.

Q. Do you mean to say that from 1903 up until 1908 there was no material increase in the price of farm implements outside of the binders and mowers? A. I don't remember, I don't think there was.

Q. Did not the price on wagons increase during those years? A. Yes, sir.

Q. That is a farm implement, isn't it? Can you name some farm implements that the prices did not increase on between 1903 and 1908 outside of binder and mowers? A. I could not without looking up the invoices, I don't remember.

Q. Now before 1903 when these companies gave you a list price on machines that price included the trucks, the transport, didn't it? A. No.

Q. Before 1903? A. It included the bundle carrier, I think.

Q. It included the trucks too, didn't it? A. I think not.

Q. Did you ever pay for the trucks a price in addition to the list price of a binder before 1903? A. I think we did.

Q. Do you know that? A. I ain't positive of that.

Q. You do know however, that since 1903 the list price given you by the company does not include the trucks, don't you? A. I couldn't be positive about that.

Q. You don't now get the trucks with the machine when you pay them their list price for it, do you, when you pay \$107.50 for a six-foot binder, that price does not include trucks, does it? A. I think it does, it don't include the tongue truck.

Q. The trucks that you move the machine on, you understand what I mean, the transport? A. Yes, sir.

Q. That price does not include that transport, does it? A. I don't remember whether it does or not, I never looked over the contract.

Q. Didn't you say a while ago that the trucks were \$3.00 extra? A. No, sir; I don't think I did.

Q. You say you don't recall saying that? A. No, I don't think I said that, I don't think the question was asked.

Q. You don't know as a matter of fact whether that is true or not, that is, that you have to pay \$3.00 extra for the trucks? A. No, I couldn't say that positively.

Q. You spoke of selling to people when they came into Farmington regardless of the place that they lived, did you ever have a man come into Farmington that you sold to that did not live in the vicinity of Farmington since 1903? A. They come there and get their work done and if they want a machine we sell it.

Q. Have you since 1903 ever sold any machine to anybody who did not live in the vicinity of Farmington? A. Yes, sir.

Q. Who was that? A. I shipped one to St. Genevieve this year.

Q. Did you sell directly to the purchaser or did you send them to the agents? A. Yes, sir; sold it to the purchaser.

Q. Is there an agent at St. Genevieve selling the same machine that you sell? A. I think there is.

Q. Well, do you know? A. I am not positive of that, but I think there is.

Q. Who was it that you sent that machine to? A. Mr. E. E. Schwenk.

Q. He lives there at Farmington? A. Yes, sir.

Q. You made that sale right there in Farmington? A. Yes, sir.

Q. He lives right in your town? A. Not right in town.

Q. Well he lives out a mile from town? A. Yes, sir.

Q. You sold that machine right to him at Farmington and he merely shipped it over to St. Genevieve to a farm that he owns there? A. Yes, sir.

Q. Tell us an instance where a man has come in from another town, who resided in another town? A. You see they don't come from the town to buy a machine, they come from the country.

Q. Tell me where some man come in from the country that is not in the vicinity of Farmington? A. We sold machines down at Libertyville.

Q. That is in the vicinity of Farmington, that is not more than ten miles from Farmington, is it? A. We sold machines down at Coffman.

Q. That is not over ten or twelve miles from Farmington, is it? A. About fourteen I expect.

Q. That is as far away from Farmington as you ever made a sale? A. No, sir.

Q. Where else did you make one? A. I sold some down at Lawrenceeton.

Q. That is in St. Francois county? A. No, sir; St. Genevieve county.

Q. How far is that from Farmington? A. About 18 or 20 miles.

Q. Who did you sell that machine to? A. I sold it to my brother-in-law.

Q. Of course he would very naturally buy it from you, he come to Farmington and you sold it to him at Farmington? A. Yes, sir.

Q. You don't mean to leave the impression, do you, that you sell machines out through that section of the state generally regardless of the fact that the town or community may be situated at some remote distance from Farmington? A. I don't understand the question.

Q. You have what you regard as a fixed territory there in which to make your sales, have you not? A. Yes, sir; Farmington and vicinity.

Q. Your contract provides for that? A. Yes, sir.

Q. You have been impressed with the fact that you are not to

make sales only in Farmington and in the vicinity of Farmington, have you not? A. I sell to whoever comes there to buy.

Q. I understand that, but the agents of this company have impressed you with the fact that you are there to sell only in Farmington and in that vicinity? A. No, sir; the contract reads that way, but we sell to whoever comes.

Q. You have never gone beyond the vicinity of Farmington to sell, have you? A. I don't know how far the vicinity reaches.

Q. How far away from Farmington, outside of the sales that you made to your brother-in-law, have you ever made any since 1903? A. I expect that is the farthest, only that and St. Genevieve.

Q. I understand you to say that you sold at prices fixed by yourself? A. Yes, sir.

Q. Has not the block man or the agent of the company suggested to you the price that these machines were selling for at some other place? A. They told us what they would sell for at other places.

Q. What did they tell you in that connection? A. That is all they told us.

Q. What price did they tell you they were selling at, say the six-foot binder? A. This year.

Q. Yes? A. I think \$130.00 or \$135.00.

Q. What did they tell you last year? A. I think it was the same.

Q. But they always do this regardless of the price that they tell you, each year when they come around they tell you the price that these machines are presumed to sell for, do they? A. Not always, they do sometimes.

Q. That has been their general practice, hasn't it? A. We don't follow that.

Q. I understand that, but their agents tell you that, don't they? A. They tell what they sell at other places, yes, sir.

Q. And indicate to you that you are expected to get that price? A. No, they don't say we shall do that.

Q. But they tell you that this machine ought to bring its price, don't they? A. They say it ought to, to give us a profit.

Q. You said something about when you made a reduction in the price of a machine that you sometimes in the way of a reduction would throw something in, is that true? A. Yes, sir; throw in a little work or something.

Q. That is the kind of reduction that you make usually in the price, you give them something in addition to the machine for a certain price? A. Yes, sir; sometimes take in an old machine for a little price.

Q. And sometimes give them a little twine? A. Yes, sir.

Q. But your practice is to say to them, "Here, we expect you to pay us this much money for the machine, but we will give you so much twine or take in an old machine, but this contract price must be followed?" A. No, sir.

Q. That is your general practice? A. No, I don't tell them that.

Q. Why do you throw something in then instead of reducing the price? A. It pleases the customer and makes a sale.

Q. You think that would please him better than making a cash reduction in the price? A. Yes, sir.

(Witness excused).

LOUIS RINGE, being duly sworn upon his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. Louis Ringe.

Q. Where are you located? A. At St. Charles, Missouri.

Q. How far is St. Charles from St. Louis? A. About twenty-three miles, from central St. Louis, about sixteen miles from the limits.

Hon. Theodore Brace, Commissioner:

Q. About twenty-three miles from here? A. Yes, sir.

Hon. Selden P. Spencer, Counsel for Respondent:

Q. How long have you handled harvesters in your place? A. Since 1897.

Q. Twelve years? A. Yes, sir.

Q. What line have you been handling since 1903? A. We first handled the McCormick for a year or two and then the Champion was added.

Q. What line of harvesters are handled at your place? A. The McCormick and Champion.

Q. Are those the only two harvesters that are handled at St. Charles? A. Yes, sir.

Q. What others are handled there? A. The Burns Machine Company handles the Deering and the Milwaukee, and Way & Shultz handles the Osborne.

Q. Any others handled? A. No, sir.

Q. What other farm machinery do you handle? A. All farm implements.

Q. Whose make? A. We handle the Racine-Satterlee machinery, the Oliver, the P. & O. Pollen & Orendorff machinery, then we handle the Osborne rake, the Osborne tooth harrow, that belongs to the International Harvester people.

Q. All these are manufactured by companies other than the International Harvester Company? A. Except the tooth harrow.

Q. What wagons do you handle? A. We handle the Racine-Satterlee.

Q. That is not manufactured by the International Harvester Company? A. No, sir.

Q. You handle the binders and mowers of one concern and other farm implements of another concern? A. Yes, sir.

Q. Who fixes the retail price at which you sell to the farmer? A. We do.

Q. Absolutely or is there any dictation? A. We fix our prices on all implements that we sell.

Q. Is there any suggestion at what you should sell for, or are you free in the matter? A. No, sir; perfectly free.

Q. Where do you sell, what territory have you? A. St. Charles and vicinity.

Q. What does that mean? A. We sell wherever we can, if a customer comes from some other county we sell him.

Q. If General Major wants you to sell him a machine, would you sell it to him? A. Yes, sir.

Q. Is there any limitation of any kind as to where you sell or what you sell for? A. No, sir; not any.

Q. You pay a fixed price for the machine? A. Yes, sir.

Q. And except for that you are free to sell it at any price you like and anywhere you like? A. Yes, sir; I will qualify that by saying our territory is St. Charles and vicinity, we never aim to canvass all over the country but if a man comes from Illinois and wanted to buy a machine we would sell it to him, we have sold machines in the state of Illinois.

Q. Was there any increase in the price of harvesting machines, I mean binders and mowers, between the time of the organization of the International Harvester Company in 1903 and up to 1908? A. No, sir.

Q. The price remained the same? A. No, sir; it did not remain the same, it went lower on the binders.

Q. When did it go lower? A. I think it was in 1903 if I remember right.

Q. The price in 1903 was a little lower than the preceding year? A. The price on the truck was lower when formerly there was a stipulated price for the binder and \$4.00 extra for the truck.

Q. The truck is not any absolute part of the machine, the machine is complete without the truck? A. Yes, sir; all it is for is to haul it.

Q. That is something to facilitate the hauling? A. Yes, sir; to take it from one field to another.

Q. Between 1903 and 1908 how was the price on harvesting machines? A. Just the same.

Q. There was a raise in 1908? A. Yes, sir.

Q. I understood you to say that? A. Yes, sir.

Q. What was that raise? A. That raise was for the six-foot machine from \$95.00 to \$110.00 with five and seven per cent discount.

Q. Was the five per cent discount from \$95.00 or \$100.00 down to \$95.00? A. No, we bought the machine at \$95.00 cash, and now we buy it at \$110.00, that is the six-foot price, and the seven-foot price is \$3.00 higher.

Q. Let us take the six-foot binder and get that right, between 1903 and 1908 what was the price, the cash price and the time price of the six-foot binder? A. That was \$95.00.

Q. That was what? A. With the trucks?

Q. Was that cash or time? A. Cash.

Q. What was the time price? A. The time price was \$5.00 higher.

Q. \$100.00 that is between 1903 and 1908 the cash price of the six-foot binder was \$95.00 and the time price was \$100.00? A. Yes, sir.

Q. Now then in 1908, what was the time price of the same binder? A. I am not positive about that.

Q. I mean exclusive of the truck, I want the binder, the time price of the binder, what is that now? A. \$110.00, that is with the truck.

Q. Without the truck? A. \$3.00 less.

Q. \$107.00? A. \$107.00 with five per cent discount and two per cent.

Q. Is that the time price or the cash price? A. That is the cash price.

Q. You don't mean the cash price is seven per cent off—perhaps I didn't understand you, the cash price I understand you is \$107.00 with five per cent plus two per cent, seven per cent off? A. Yes, sir.

Q. And the time price is without the discount? A. Yes, sir; that is \$3.00 higher.

Q. Eliminating the truck, so that the machine on the time price now is \$107.00? A. Yes, sir; with five per cent and two off.

Q. For cash? A. Yes, sir.

Q. Now as a matter of fact that price is \$107.50, isn't it? A. I probably is, I wouldn't say positively now to a few cents, because I have not figured the discount, I am just giving you the cost of the machine and the discount, I have not figured it.

Q. You have handled other farm implements for the last fifteen years? A. Yes, sir.

Q. All kinds of implements that are needed by the farmers? A. Not fifteen years, since 1897.

Q. Well, that is thirteen or twelve years, all implements needed by the farmer? A. Yes, sir.

Q. What has been the course of price in farm implements outside of the harvesting machines? A. They have also increased in price.

Q. What per cent? A. From ten to fifteen per cent.

Q. That is from 1903 to the present time other farm implements you say have increased in price from ten to fifteen per cent? A. Yes, sir.

Q. And the harvesting machines, you say they had no increase until 1908 and then the increase which you described? A. Yes, sir.

Q. What is the competition between you and the other dealers in your town? A. What is the competition?

Q. Yes, what is the character of it, is there any competition? A. Oh, yes; certainly we have competition, the Bruns Machine Company and Way & Shultz.

Q. They were in business prior to 1903? A. Yes, sir.

Q. How does the competition now compare with the competition then? A. Just about the same, I don't see any difference in it.



Q. Is there the same cutting in prices in the competition now as there was then? A. There is always cutting, you can't prevent that, that has been ever since I have been in business, not only on the harvesting machines, but on everything else.

Q. Is there any difference in the facility in farmers obtaining repairs now as compared with prior to 1903? A. Now, I can't say there is any difference.

Q. Will you say that the repairs are as accessible now as they were then? A. Just the same.

Q. How much repairs do you carry? A. \$1,000.00, between \$800.00 and \$1,000.00.

Q. Do you have to pay any thing for them until you sell them? A. No, sir; when we settle we pay for what is sold.

Q. Otherwise they are shipped to you on your order? A. Yes, sir.

Q. How was that before 1903? A. Just the same.

Q. What machine did you handle? A. The McCormick.

Q. How many dollars in a year do you sell of repairs? A. Well that varies some, I guess we sold about \$700.00 worth this year.

Q. Is that an ordinary year or more? A. Well I think that is a little more, we usually sell from between \$500.00 to \$700.00 worth, very rarely do we get under \$500.00.

Q. In your territory and in your experience, how does the assistance that you get from experts and canvassers sent from the company compare with the expert assistance and canvassers furnished prior to 1903? A. When we ask for any we get them, that is all I know, and always have.

Q. Is there any difference between now and then? A. No, sir; not at all, whenever we ask for assistance we get it, I have never been refused assistance yet.

Q. Before 1903 could you get repairs for machines that you did not actually handle? You handled the McCormick in 1903? A. Yes, sir.

Q. Could you get Deering repairs? A. When there was no Plano agent there, we could.

Q. I don't mean now, but any time? A. We can get repairs for any machine that we handle.

Q. You can get repairs for any machine that the International Harvester Company makes providing there is not agency there? A. Yes, sir.

Q. That is necessary? A. Yes, sir.

Q. Before the International Harvester Company was formed and you were selling for the McCormick alone, could you get Deering repairs? A. No, sir; there was a Deering agent there.

Q. If there had been no Deering agent there? A. Then we could have gotten them.

Q. As a McCormick agent before 1903? A. I have never experienced it, I wouldn't say that, I am not positive because we never had any occasion to ask for any or get any.

## CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. What sort of place is St. Charles? A. About 11,000 inhabitants.

Q. And it serves a good sort of farming country doesn't it? A. Yes sir.

Q. And now the only machine sold in St. Charles are the McCormick, the Champion, the Deering, the Milwaukee and the Osborne? A. Yes, sir.

Q. Each and every one of those machines are made by the International Harvester Company, are they not? A. There was another one sold last year.

Q. But first answer this question I have asked and we will get along better, they were all made by the International Harvester Company? A. As much as I know, yes, sir.

Q. Is there any other agent in the City of St. Charles selling any other make of harvester machine? A. Not just now, no, sir; not today.

Q. So that the only parties selling machines, harvester machines in St. Charles are the agents of the one company? A. Yes, sir.

Q. All those machines were prior to 1905 made by separate individual companies, were they not? A. Yes, sir.

Q. And when placed on the market each individual company sent its man to your city to help you sell machines? A. Yes, sir.

Q. And the company added its force to your efforts to help you sell a machine? A. Yes, sir.

Q. And each company did that in that vicinity? A. Yes, sir.

Q. So that then the character of competition that existed then is not the character of competition that exists now? A. I can't see no difference.

Q. There is no difference between the agents themselves in their competition, but there are no companies engaging in competition? A. No, sir; no companies.

Q. So that the conflict of the companies in the fight is removed from the field, isn't it? A. Just now it is.

Q. It makes no difference how much you and all the other agents fight, there is but one person to receive the benefits and that is the International Harvester Company, isn't it? A. Yes, sir; that is true.

Q. So they are glad to have a sharp competition between the local agents? A. (No answer).

Q. There is a difference in that regard so far as competition is concerned, is there not? A. Well, yes.

Q. Now just prior to 1903, each one of these individual companies would meet the price made by its competitor, wouldn't it? A. They have not with us, I don't know if there is any change in price, we had the same price that we have now, that is up to 1907.

Q. Do you mean to say prior to 1903, what machine was it that you handled? A. The McCormick.

Q. Do you mean to say that prior to 1903 the McCormick Company

sold you their machine at one set price and never cut the price? A. They never cut the price with us.

Q. Did they allow you to take in an old machine and allow you credit for that? A. No, sir; never.

Q. They never? A. No, sir; we took in old machines, but the Harvester Company never allowed us anything for them, we sold them for old iron.

Q. Who bought them, when you would buy the old machine you would sell it in the town for old iron? A. Yes, sir; if we could not sell it secondhand.

Q. Would it be your individual machine? A. Yes, sir.

Q. The company would have nothing to do with it? A. The company would have nothing to do with it at all.

Q. What was the price on your machine, the McCormick, prior to 1902, say in the year 1901 what price did the company make you on the six-foot McCormick? A. \$95.00.

Q. Now that included the trucks? A. That included the trucks, yes, sir; no, I beg pardon, that did not include the truck, the truck was always separate.

Q. In 1901 the McCormick sold you the machine for the price of \$95.00? A. And for \$4.00 for the truck.

Q. \$99.00 then for the machine with the truck complete? A. Yes, sir.

Q. That was a six-foot harvester machine? A. Yes, sir.

Q. Now in 1903, the International Harvester Company had to sell the same machine for \$95.00? A. Including the truck.

Q. For \$95.00 including the truck? A. Yes, sir.

Q. So then in 1903 which was the first year that the International did business, they gave you the benefit of throwing in the truck? A. Yes, sir.

Q. And that was the only difference then? A. That was all.

Q. Now did the price in 1904 and 1905 and 1906 continue the same? A. Yes, sir.

Q. Up until 1908? A. Yes, sir.

Q. And in 1908 the price increased \$7.50 at once, didn't it? A. Yes, sir; that is exclusive of the truck which costs \$3.00 now.

Q. So that now in 1903 you got a machine and your truck for \$95.00 didn't you? A. Sir?

Q. In 1903 you got your truck and your machine for \$95.00? A. Yes, sir.

Q. But now when you buy your truck and machine what do you pay for it? A. We pay \$107.00 and \$3.00 for the truck.

Q. \$107.00 and \$3.00? A. \$107.50 and \$3.00.

Q. In other words, for the same goods you now pay \$110.50? A. Yes, sir.

Q. That is an increase of \$12.50 on their machine since they started business, isn't it? A. No, sir; it is not. There is a discount of seven per cent, of five per cent and two per cent.

Q. That is what you call a cash payment? A. It is all cash at time when settlement time comes.

Q. But what you are pleased to call cash is not cash when the goods are delivered? A. No, sir.

Q. You simply pay cash when settlement time comes? A. Yes, sir.

Q. And that will be September first? A. Yes, sir.

Q. You can sell a machine in May and pay for it in September and you call that cash? A. Yes, sir.

Q. When a man comes to your town to buy a machine you have a certain locality, that is, you have St. Charles and vicinity? A. Yes, sir.

Q. And your contract is construed to mean that you can sell any man who comes to your place to buy, irrespective of where the man lives? A. Yes, sir.

Q. The sale must be conducted at your place? A. Yes, sir.

Q. You are not permitted to leave your place and go out into some other territory and sell machines there? A. We do.

Q. You do? A. Yes, sir.

Q. Why do you have in your contract St. Charles and vicinity then?

A. Where there are no other agents that we don't come in contact with, we sell wherever we can.

Q. You can go to some other place, provided the International Harvester Company has no agent at that place? A. We even do it then; we sell a machine within a mile of other agents.

Q. You go yourself over there and make a sale in that territory? A. Yes, sir; we do.

Q. When and where did you do it? A. Where?

Q. Yes? A. There is a territory that adjoins us at Marchens, Missouri, we go within one mile, we made a sale there this year.

Q. You don't go into the town? A. It is only a cross-road store.

Q. It is in the vicinity of St. Charles? A. Yes, sir.

Q. How many miles from St. Charles? A. Eleven miles.

Q. There is nothing there but a store? A. That is all.

Q. You don't go from St. Charles to Wentzville? A. That is too far, anyhow; we couldn't go there.

Q. That is in the same county? A. Yes, sir.

Q. You don't go to St. Peters? A. Yes, sir; we have sold right adjoining St. Peters, within half a mile.

Q. Did the party come to your place to buy? A. No, sir; he come to the place first and made inquiry and we went there and sold him.

Q. Have the International people an agent there? A. Yes, sir.

Q. Did that agent raise any complaint? A. No, sir; he comes over in what we call our territory and sells there.

Q. So that you reciprocate? A. Well, I guess it is a case of have to.

Q. Up to 1905, you couldn't do that, could you? A. Yes, sir; all the time; we sold all the time wherever we could sell.

Q. No other man in St. Charles can handle the McCormick machine but you? A. That is true.

Q. You have the exclusive agency there? A. We have the exclusive agency for the McCormick machine for St. Charles and vicinity. (Witness excused).

CHARLES G. NEIBURG, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. Charles G. Neiburg.

Q. Your town is what? A. Wright City.

Q. How long have you been in business there? A. A good long time; about twenty years.

Q. Have you been selling harvesting machines all that time? A. Yes, sir.

Q. What was the price of harvesting machines when you started in? A. I can't remember now just the price they were when we started in.

Q. Have you any idea how much you had to pay for them? A. In the neighborhood of \$100.00.

Q. I mean twenty years ago? A. They were higher than that.

Q. Do you remember how much? A. No, I don't remember; I have no record to show what they cost at that time.

Q. How large a place is Wright City? A. About 500.

Q. How far is Wright City from St. Louis? A. 54 miles.

Q. How many machines are handled in Wright City? A. At the present time we handle the McCormick and the Milwaukee, the binders.

Q. What other machines are handled in the town? A. The Deering.

Q. Any others? A. No, sir.

Q. What mowers? A. We handle the Champion and McCormick and the Deering is handled by our competitor.

Q. Any other mowers handled in the town? A. No, sir.

Q. Do you remember when before 1905, the exclusive agency clause was in your contract that prohibited you from selling any other goods except the goods of the International Harvester Company? A. Previous to that time there was a clause in it.

Q. What was the effect of it? A. Well, it never was carried out in any way.

Q. I mean in your experience and in your territory, that is all I want? A. What was the effect of it?

Q. I mean in your experience and in your territory, did you carry it out?

Hon. E. W. Major, counsel for Informant:

Objects to the question.

A. We always handled the two binders together and, of course, we never told them that we were going to continue, if they didn't want a contract—

Q. What binders did you handle?

Hon. Charles G. Revelle, counsel for Informant:

We desire to interpose our objection to the efforts of counsel to show the effect of that clause in the contract and the manner in which that is treated, because it is not a question of how one party that got a

contract treated the clause. As far as it has any effect at all, if it has, it is a question of their fair intention when they enter into the contract. It being written in there indicates their intention, and after that is disclosed it is immaterial to show the effect of it unless it is offered purely in mitigation. If the gentlemen want to agree that this is offered in mitigation, perhaps it is competent, otherwise I think it is wholly immaterial.

Hon. Theo. Brace, Commissioner:

We have had a great deal of it in, gentlemen, and I don't think the materiality can be determined now. Objections are overruled.

Hon. Charles G. Revelle, counsel for Respondent:

I just wanted to explain our position on it. I think it is absolutely immaterial.

Hon. Selden P. Spencer, counsel for Respondent:

Q. What binders did you handle, you say you handled two binders?

A. We have handled as far back as fifteen or eighteen years the Minneapolis and then for a short time we handled the Plano in connection with it.

Q. You always handled then what binders you wanted? A. We continued the binders we thought we wanted until they changed hands, the Minneapolis went into a receiver's hands.

Q. Now, is the price fixed at which you sell those goods to the farmer? A. There is no fixed price; the only price we have been getting for the last couple of years has been \$130.00 for six-foot machines.

Q. Who fixed a price when a farmer— A. We fix it ourselves.

Q. Are you free in the price? A. Certainly.

Q. Where is your territory, where do you sell? A. The territory tributary to Wright City.

Q. What do you mean by that? A. That is the way the contracts read, tributary to our town when it don't interfere with our competitor in the neighboring town on the same class of goods.

Q. Suppose some of the gentlemen here this afternoon wanted to buy some machines, are you free to sell them? A. I certainly would be in our territory, but I don't know, but we have had no occasion to have a customer of that kind, not fortunate enough.

Q. Do you stick to your territory or do you sell whenever a customer comes? A. We are pretty square; we just simply sold them right around in our territory.

Q. Have the general agents of the International Harvester Company, its block men and general agents, given you any direction in the matter? A. Not otherwise, we know in neighboring towns how far to go, we have possibly six miles or eight miles around us.

Q. If a man twelve miles nearer to another town than yours— A. If he came to my place and would buy a machine I would sell him a machine.

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## CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. How long have you been in the business? A. We have been there I suppose about 30 years, that is in business in town there in Wright City.

Q. Selling farm machinery all the time? A. Yes, sir.

Q. Eighteen years ago you sold the Minneapolis? A. I think it is about eighteen years ago, yes.

Q. You know, as a matter of fact, the Minneapolis was bought out by the International Harvester Company of America? A. This was previous to that time.

Q. I know; afterwards they bought it out? A. Yes, sir.

Q. And the only machines sold in your town are the McCormick, the Deering and the Champion? A. The McCormick, the Deering and Milwaukee binders.

Q. Each one of these three machines is made by the International Harvester Company? A. Yes sir.

Q. So there is no other concern in your town selling a machine saving and excepting the International Harvester Company of America? A. Yes; I suppose so.

Q. You would know if there was any other agent there, wouldn't you? A. Surely; there is no other agent there.

Q. Prior to the formation of the International Harvester Company, each one of these independent companies would send their man and you would go out and canvass the country around, wouldn't you? A. We did very little canvassing with any travelling men, we always did it ourselves, we never had no assistants, we done our own canvassing.

Q. Prior to 1903 the companies themselves would help you to sell machines once in a while? A. Not necessarily, there was one year that there seemed to be right smart of a fight just prior—that the companies were cutting and trying to close sales.

Q. That was just prior to 1903? A. Yes, sir.

Q. In 1901 and 1902 the companies were fighting each other and cutting the price pretty severely were they not? A. Yes, sir; they were; that is, to the farmers.

Q. And the companies during those times made reductions in price on machines to you? A. In a round about way.

Q. Each company would give you a kind of reduction on its machine, and that would enable you to meet the other fellow? A. The travelling men came out and each one wanted to show what they had done; of course, they would go to work and cut and, of course, trade in old machines, the price was uniform though, but they were trading in old machines.

Q. And the Company would give you the benefit of that? A. Not necessarily; in taking old machines there is naturally a loss to a certain extent.

Q. But the companies gave you the benefit in that indirect way,



didn't they? A. Well, we didn't realize any more profit on them if they traded that way, if they took in old machines.

Q. The Company would split the matter up with you? A. The Champion Company did.

Q. That was before it was owned by the International Harvester Company? A. Yes, sir.

Q. The International Harvester Company does not do that? A. No, it is a straight deal; there is no trading there any more.

Q. That part has been eliminated entirely? A. That is left to the agent.

Q. Of course, when the agency for the McCormick was established with you you had certain territory? A. Yes, sir.

Q. About what direction would the block men give you as to how far out you should go in selling approximately, I don't mean accurately? A. On the McCormick, taking that machine up, well, we have handled that two years, the other gentleman that has the McCormick, they couldn't ask us to knock them out, so we simply went half way, as near as possible, which would be about, approximately speaking, eight miles, about sixteen miles square.

Q. So that each man had his territory? A. It was not drawn out.

Q. There was no line run? A. No drawing made of it at all, simply they wanted to treat the agents right, when we found the trade belonged to that agent we didn't go after it at all.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. When you say the Champion gave you credit for old machines that you traded in prior to 1903, was that when you sold new machines or when you sold shop worn or carried over machines? A. They were new machines, supposed to be.

Q. Just come in? A. Yes, sir.

Q. Do you carry repairs? A. Yes, sir.

Q. For other machines than those that you handle? A. We have repairs for the McCormick, the Milwaukee and the Champion.

Q. What machines are you agent for? A. The McCormick and Milwaukee.

Q. You carry repairs for the Champion, although you are not the agent for it? A. Yes, sir; because we sold them before.

Q. You never did that before the International Harvester Company was formed, you didn't have repairs for machines that you were not agent for? A. Certainly not, because we could only handle repairs for the companies we represented.

#### RE-CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. You handle repairs now from the companies that you represent because there is only one? That is all.

(Witness excused.)

HENRY F. WOERTHER, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Give your full name? A. Henry F. Woerther.

Q. Where is your home? A. Baldwin, in St. Louis county.

Q. How many miles is that from St. Louis? A. About 21 miles from the court house.

Q. What business are you in there? A. I am in the hardware and implement business.

Q. What harvesting machines do you handle? A. The McCormick.

Q. Did you handle any others, binders first? A. No; well, I did this year, I handled the Plano also.

Q. What mowers did you handle? A. The McCormick; I have handled some Emersons, still have some on hand.

Q. Where is the Emerson manufactured? A. In Rockford, Illinois.

Q. And the McCormick is manufactured by the International Harvester Company of New Jersey? A. Yes, sir.

Q. You handled both kinds at the same time? A. Yes, sir; only the mower, the Emerson.

Q. Any objection raised by anybody? A. No objection.

Q. Who fixes the price at which you sell harvesting machines? A. I fix it.

Q. What territory are you confined to? A. Well, my contracts always have read Baldwin and vicinity, and I have of course, traveled all the country where I thought I could sell a machine, or whenever I found a prospective customer, and no objection was made by anybody.

Q. You sell wherever you can find a purchaser? A. Yes, sir; I often come to St. Louis and sell machines and ship them out, that is, to people near me.

Q. Who pays for the insurance that is carried on the stock of goods that you have? A. I don't know as anybody pays for it; I know I do not.

Q. How long have you been in the business? A. Since 1899.

Q. Did you ever pay for the insurance? A. No, sir.

Q. What other machines are handled at Baldwin besides the McCormick. A. The Champion and the Milwaukee.

Q. Any others? That is all.

CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. The Champion and Milwaukee? A. Yes, sir.

Q. And both of those machines are owned and sold by the International Harvester Company? A. The Champion and Milwaukee; yes, sir.

Q. So there is no other concern selling machines at your place saving and except this one concern? A. That is all.

Q. And when you say you came to St. Louis and sold machines here, when you did that you sold to somebody living in your vicinity?

A. That is what I stated.

Q. So that was selling, of course, in you territory? A. Yes, sir; while the person was not a resident of my immediate neighborhood, he either owned land there or had some interest in it.

Q. It placed his interest within your territory? A. Yes, sir.

Q. It would be within your territory? A. Yes, sir; Baldwin and vicinity, or in other words, you could call it Baldwin and its trade.

Q. And you and the Company both signed a contract to that effect?

A. To what effect?

Q. That you would have Baldwin and vicinity? A. Well, now, I was not limited, the understanding never was that I was limited to a certain place or boundary line.

Q. Of course, there were no boundary lines, they don't make surveys? A. They could say you are not allowed to go outside of Bon Homme township, but I have sold in Bon Homme and Meramec and Central townships.

Q. Because of it being ten to fifteen miles of your place? A. Yes, sir.

Q. You handle the McCormick and the Plano? A. Yes.

Q. Both of those machines are made by the International Harvester Company? A. Yes, sir.

Q. So there is no competition among companies there? A. You mean in my territory?

Q. There is no competition among those companies in your territory? A. Certainly there is; other machines are handled; you ask about machines handled in my town.

Q. That is what I mean. A. But not in my territory.

Q. When I have reference to your town I mean the territory emanating from your town, there is no other company selling machines in your town? A. That is right; no other company selling in my town.

Q. And they have no agents there? A. Not in my town, but that does not cover my territory.

Q. When you go to make prices at Baldwin, there is no other company except some one handling an International machine to go to get a cut, is there? A. Well, that is all right, my strongest competitors are not my immediate, that is the competitors in my town I do not consider them my strongest competitors.

Q. Where a man in the same town where you live sells a machine from the same company from whom you bought, you don't consider that a strong competitor? A. If you will let me state what I mean—

Q. Answer the question. A. I would consider him a competitor if he worked the trade like I do. I couldn't get the business if I didn't work the trade, but I must remember that I must not put too big a price on my machine so that the other fellow in the next town gets the trade.

Q. The fellow in the next town, he is usually a man that handles machines of the International Harvester Company of America? A.

But I don't have to contend with the man that is selling in the International line, I am contending with the man that is selling a machine for its owner.

Q. You don't have any trouble with the man that sells different makes of machines of the International Harvester Company? A. Certainly I do; I have with all, but the point is I must not get my price too high so that the man that handles another make of machine will undersell me.

Q. You direct your fight against a fellow who is selling the machine of some other company? A. No, sir; I do not, I direct my fight against every man selling a machine in my territory.

Q. What did you mean by saying awhile ago that you did not consider a man who was selling International Harvester Company goods your strongest competitor? A. Did I say that?

Hon. Selden P. Spencer, counsel for Respondent:

I don't think he said that.

Hon. Theodore Brace, Commissioner:

It was the man in his town.

Hon. E. W. Major, counsel for Informant:

Q. You did not consider the man selling in your town your strongest competitor? A. Yes, sir.

Q. The men selling in your town are the men that handle the goods of the International Harvester Company? A. But I also stated they would sell more machines if they worked the territory.

Q. Who do you regard as your strongest competitor in your territory? A. There are several outside of my town and in my town.

Q. Who are they? A. I don't suppose that makes any difference who I consider my strongest competitor.

Q. I am asking the question? A. I said that I consider—let me see, just ask the question again.

Q. Who do you consider your strongest, or who is your strongest competitor in the whole territory? A. The man that handles the Johnston machine.

Q. That is an independent machine? A. Yes, sir.

Q. And your fight is directed against that fellow? A. Certainly, because I must fight, because he gets out and works for the trade, and so do I.

Q. And the International Harvester Company sends men down to your place to go out and help fight that fellow? A. Yes, sir; and they send men to the other agents in my town to go out and fight. As far as fighting is concerned, we don't fight, we don't have occasion to run the Johnston down any more than we do to run the other machines made by the International Harvester Company, I fight them all, whether International Harvested Company or Johnston.

Q. And the International Harvester Company, when they send a man there to fight the Johnston, if that is your competitor, it is still the International man? A. They never consider that they send a man to fight the Johnston, they send a man to help me sell machines, if I make a fight on the Johnston, that is my business, it is not the International Harvester Company's.

Q. But he joins you in the fight? A. No, sir; he won't.

Q. Made against the independent? A. He will fight the independent and the International Harvester Company as well.

Q. But his ammunition is directed more against the independent, isn't it? A. No, sir; it is not; I make a square fight, whether independent or International.

Q. If he directs a fight in your town on the Deering, sells more McCormicks than Deerings, the International people make just the same money? A. The Deering is not sold in my town.

Q. Whichever it is, you represent the McCormick? A. Yes, sir.

Q. And the Milwaukee is sold there? A. Yes, sir; and the Champion.

#### RE-DIRECT EXAMINATION.

By Selden P. Spencer:

Q. Do you sell the Champion? A. I sell the McCormick.

Q. If you don't sell the McCormick you don't get a commission?

A. No, sir; and that is what I am after.

Q. If a farmer wants a machine who is looking at the Johnston, who is the fight against? A. The Johnston.

Q. And if he is looking at a Deering, a Plano or a Milwaukee, who do you fight? A. I fight the machine he talks, no matter whether it is a Deering, a Johnston or whatever it is. When I get there and he talks about another kind I go after him and talk McCormick.

(Witness excused.)

GEORGE SCHNEIDER, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. George Schneider.

Q. Where do you live? A. St. Peters.

Q. How far is St. Peters from here? A. 32 miles.

Q. What harvesting machine do you handle? A. The McCormick alone.

Q. How long have you handled it? A. I can't exactly tell, I guess about seven years.

Q. How long have you handled harvesting machinery? A. About 15 years.

Q. What machine did you handle before the International Harvester Company of New Jersey was formed? A. I had the Osborne and the Plano.

Q. Who fixes the prices at which you sell goods? A. Myself.

Q. Anybody else? A. No, sir.

Q. In what territory do you sell, where do you sell goods? A. St. Charles county.

Q. Were you restricted in your territory? A. No, sir.

Q. If men around this table want to buy goods from you are you free to sell them to them? A. Yes, sir.

Q. Do you remember the exclusive agency clause that was in the contract once before 1905, requiring you only to handle goods of the International Harvester Company of America? A. I can't tell exactly. I never paid no attention to it, because I generally bought my goods cash, that is, I paid for all the goods I bought, I didn't pay much attention to the clause they had in it, I couldn't say what it was.

Q. Did you handle other goods besides the goods of the International Harvester Company? A. I always did.

Q. Do you know? A. Yes, sir.

Q. What other goods do you handle now? A. I handle a disc harrow, the Case, and several others.

Q. Do you handle other lines of mowers or reapers? A. I have handled the Standard mower.

Q. And part of your farm implements are International and part are not? A. Yes, sir.

Q. Who pays the insurance on the machines you have, if anybody does? A. It is the International Harvester Company.

Q. Did you ever pay it? A. No, sir.

Q. In years gone by? A. No, sir.

Q. Did you ever use to carry your own insurance? A. I used to but I do not now.

Q. Do you remember when the year of the change was? A. I could not say.

Q. But formerly you used to carry the insurance yourself? A. Yes, sir.

Q. Now you do not? A. No, sir.

Q. Do you remember the year of the change? A. No, sir; I couldn't tell.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. The McCormick, the Osborne and the Plano that you speak of, all three are now made by the International Harvester Company of America, and sold by them? A. Yes, sir.

Q. There is no independent company in your town selling harvesting machines at all, is there? A. No, sir.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. How big is St. Peters? A. About 600 inhabitants.

Q. How far is St. Peters from here? A. 32 miles.

(Witness excused.)

W. P. McCLURE, of lawful age being duly sworn, upon his oath testifies as follows on behalf of the Respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. W. P. McClure.

Q. Where do you live? A. Fulton.

Q. How far is that from St. Louis? A. About 150 miles.

Q. What harvesting machines are sold in Fulton? A. We sell the Deering, and the McCormick is sold there; the Deering and McCormick are the principal machines sold there, and the Johnston is also sold.

Q. The Deering, the McCormick and the Johnston? A. Yes, sir.

Q. Any others? A. No, sir; that is the line.

Q. What mowers? A. The same line of mowers..

Q. How long have you been in the business? A. About nine years.

Q. Since 1900? A. I think it was the fall of 1900 that I went in there.

Q. Do you yourself handle the Deering? A. Yes, sir.

Q. Do you sell other farm implements at all besides harvesters?

A. Yes, sir.

Q. What others? A. You mean other harvesters?

Q. No, other farming implements besides harvesting machines?

A. Yes, sir; we handle the John Deere line of farm implements, and we handle the Thomas line of drills and rakes.

Q. What has been the course of the price of farm implements other than the harvesters since 1903, from 1903 to now? A. The tendency has been upward.

Q. About what per cent. of increase, do you know? A. I never figured that, although there has been quite an increase.

Q. In the last six years? A. At least ten to fifteen per cent.

Q. How has it been on wagons? A. It is more.

Q. What expert help and canvassers help do you get in the harvesting machine business? A. We never have had any excepting that that the Harvester Companies have furnished us.

Q. Who fixes the price at which you sell to farmers? A. We have; we fix that.

Q. Does anybody else suggest the price or join in the price? A. The block man or the agent, the traveling salesman, sometimes suggest the price, but we always make the price ourselves.

Hon. E. W. Major, counsel for the Informant:

Objects to the question.

Q. What suggestion does he make? A. That such and such ought to bring so much, that is about the suggestion.

Q. What is your course in regard to it then? A. We generally sell the implements.

Q. At what price? A. At the price I make.

Q. Where do you sell your harvesting machines? A. We sell them in Callaway county.

Q. How about in the adjoining counties? A. We have sold some in Boone county, to farmers that come over to our town from Boone county, if they come there of course, we would sell them.



## CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. A man that comes from Boone county and buys, he buys in your town at Fulton? A. Yes, sir.

Q. You don't go over into Boone county and sell there—that is, leave your business place and go there and sell? A. I have done it; yes, sir.

Q. When? A. It has been, I wouldn't like to say just exactly when, but I have canvassed in the edge of Boone county, the only line there is simply a creek, and we are about ten miles from the creek, and, of course, have trade that comes to us regular from Boone county.

Q. It is nearer to your place than to Columbia? A. Yes, sir; it is somewhat nearer to our place than Columbia.

Q. That is in the vicinity of Fulton? A. Yes, sir.

Q. You say the blockman or agent comes around and he makes you the agent of his machine which he is selling for the International Harvester Company, and he suggests to you what that machine or that article should bring, that it should sell for such and such a price, he suggests that to you? A. Yes, sir.

Q. And you name the price, but you name the price that he suggests? A. Yes, sir.

## RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Are you bound by his price? A. No, sir.

Hon. E. W. Major, counsel for the informant:

Objects to the question as calling for a conclusion of the witness.

Q. Do you always name the price that he suggests? A. No, sir. (Witness excused.)

H. D. BURNS, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your full name? A. H. D. Burns.

Q. You are located where? A. St. Charles, Missouri.

Q. How far is St. Charles from St. Louis? A. Twenty-three miles.

Q. How long have you been in the harvester machine business? A. Since 1882.

Q. What machines are sold in St. Charles? A. That I sold?

Q. Yes. A. At present, the McCormick, the Champion, the Deering, the Milwaukee and the Osborne.

Q. In the last five years have any other machines been sold there? A. Yes, sir; the Johnston.

Q. Up to when? A. Until this year; I don't think they have sold any this year.

Q. Was there an agent there before? A. Yes, sir.

Q. What other farm implements do you handle? A. We handle a general line.

Q. Whose do you handle? A. The John Deere Plow Company's goods.

Q. Any others? A. Yes; some others.

Q. I mean, do you handle an exclusive line for the International Harvester Company, or do you handle other lines, too? A. The only thing we handle of the International Harvester Company are the binders, mowers and spreaders.

Q. Whose wagons do you handle? A. The Kentucky Wagon Company, the Old Hickory.

Q. That is not an International Harvester Company wagon? A. No, sir.

Q. Whose cultivators do you handle? A. We handle the Manley, and Thompson.

Q. Whose twine do you handle? A. The Deering twine, the International twine.

Q. Do you remember the exclusive agency contract, a clause that used to be in your contract requiring you to handle only the lines of the International Harvester Company before 1905? A. I don't remember exactly; it may have been in there, but we never paid any attention to it.

Q. Do you know whether it is in there now or not? A. It is not in there now.

Q. Where do you sell, what limits are there to your territory? A. We have a pretty large scope on the Deering machine and also the Milwaukee; we have about fifteen miles either way from St. Charles.

Q. Suppose some farmer forty miles from St. Charles wants to buy a machine, and you meet him? A. Why, we sell him.

Q. Who fixes the price at which you would sell? A. Ourselves.

Q. Does anybody suggest the price to you? A. No, sir.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. The only machine sold in St. Charles now are the harvesting machines sold by the International Harvester Company of America?

A. Yes, sir; I don't believe the Johnston people sold any this year.

Q. You have put the Johnston machine out of business in St. Charles? A. Not exactly; Way & Shultz formerly handled the Johnston, but they handle the Osborne this year.

Q. The International people came along and gave them the Osborne? A. Yes, sir.

Q. So that the man that was handling the Johnston machine last year, which is an independent machine, is this year handling the Os-

borne, which is an International Harvester Company machine? A. Yes, sir.

Q. And the Independent Company, the Johnston, has no agent now in your town? A. Not that I know of.

Q. I believe that you said that you fixed your own price; do the blockmen or the agents of the International Harvester Company ever suggest to you what such and such an article should be sold for? A. No, sir.

Q. Never mention that at all to you? A. No, sir; we sometimes ask what the general price is all over, but they make no suggestions to us.

Q. Never told you what the price of an article would be if he was going to sell it for you, unless you asked him? A. No, sir.

(Witness excused.)

GEORGE H. KNOLLMAYER, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your full name? A. George H. Knollmeyer.

Q. Where do you live? A. Jefferson City, Missouri.

Q. How far is Jefferson City from St. Louis? A. One hundred and twenty-five miles.

Q. What business are you in there now? A. General merchandise and implements.

Q. Do you handle harvesting machines? A. Yes, sir.

Q. How long have you handled them? A. Since 1896.

Q. Thirteen years ago? A. I didn't figure that up; yes, about thirteen years.

Q. What harvesting machines, by that I mean binders and mowers, are sold in Jefferson City? A. The McCormick, the Milwaukee, the Plano, the Champion, the Osborne and the Deering.

Q. What one do you handle? A. The McCormick.

Q. Is the Johnston sold there? A. I don't think so.

Q. The Acme? A. Not this last year; the Woods is sold there.

Q. The Walter A. Woods machine? A. Yes, sir.

Q. The Acme? A. Not that I know of; I have not heard of any sales.

Q. What do you say about the Johnston? A. Not to my knowledge.

Q. Who fixes the price at which you sell machines? A. We do.

Q. Have you got the McCormick? A. Yes, sir.

Q. Who tells you what price you shall sell machines at to the farmer? A. Nobody.

Q. Where do you sell? A. All around Jefferson City and partly in Callaway county; Cole county and Callaway county.

Q. Suppose somebody from the adjoining county wants a machine and you were talking to him? A. I would sell him.

Q. Are you bound by any line of territory? A. No, sir; the contract calls for Jefferson City and vicinity, and that don't signify anything in particular.

Q. You say you fix the price; does it vary, or is it a definite price to everybody? A. We put the price on the machine; we figure that we ought to get so much for the machine, and we hold it at that as near as we possibly can.

Q. You cut it sometimes? A. Sometimes have to trade in old machines.

Q. When you trade in old machines, who gets the machine? A. We do.

Q. It has always been so? A. It has always been so.

Q. Did the Company ever take those machines off your hands? A. No, sir; wouldn't look at them.

Q. Either before 1903 or now? A. Never.

Q. When you need experts or canvassers, are they available for you? A. Yes, sir; any time.

Q. Do you have to pay for them? A. No, sir.

Q. How does the availability of experts and canvassers compare now as before 1903? A. I think they are better now; we had to wait a week to get a man.

Q. And you think it is better now? A. Yes, sir.

Q. Do you handle other lines of farm machinery? A. We have been handling those extensively, but last year we almost dropped out of them, because we have too much other business.

Q. What line? A. Handling plows and drills; have been selling them this year, but not pushing them.

Q. The last five or six years have you handled them? A. Yes, sir.

Q. Whose lines? A. No particular lines; tried to sell what we have which come from the Moline Plow Company and John D. Manley.

Q. Are you confined to the farm implements that the International Harvester Company manufacture, or do you buy farm implements wherever you want to? A. We always buy wherever we please; in other words, I sold different disc harrows; I got one from the International and I got others besides.

Q. You got the McCormick in Jefferson City? A. Yes, sir.

Q. Has a separate man got each one of the other machines, the Milwaukee, the Plano, and McCormick? A. No; Rodeman handles the Champion and Osborne, and Taylor handles the Plano; Osborne handles the Milwaukee; there is no agent for the Deering at the present time. Q. Is there competition between those dealers? A. Well, yes.

Q. Do you bid against each other? A. Not bid, exactly, as far as the price is concerned, because there is not enough in it for that; of course, each tries to get a sale.

Q. What inducements do you offer, suppose you know three or four of those men are after the same farmer? A. We show him our machine is better, and make the terms a little better.

## CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. There is no cutting in the price? A. Well, I don't know whether there is or not; but I never believe in cutting, because it cuts the profit down, and it don't pay to handle it.

Q. You sell the McCormick, and you sell it at a uniform price? A. We think that is no more than right; only ask what we think we have a right to.

Q. I am only asking you whether you do or do not; you sell it at a uniform price? A. Not always.

Q. If you cut, you don't cut the price, you throw some articles in? A. We make a distinction as to how a man pays; sometimes a man pays spot cash; that is something to be—

Q. You would give him then the ordinary discount? A. Yes, sir.

Q. All that buy for cash would get the same discount? A. Yes, sir.

Q. All that buy for time would get the same price? A. Yes, sir; the same price.

Q. You spoke about the Woods having been sold there; there is no agent in the town for the Walter A. Woods machine? A. Yes, sir; there is.

Q. Who is that? A. Jacob Tanner & Son.

Q. What does he do there? A. He is in the general merchandise business.

Q. He don't handle machinery? A. Yes, sir.

Q. A general line of it? A. Yes, sir.

Q. Where is he located? A. He is located on Jefferson street; I don't know his number; Jefferson and Dunklin streets.

Q. Have you ever heard of his selling a machine? A. Yes, sir; he sold two the last season.

Q. Did I understand you to say that the Johnston had an agent there? A. No, sir; I didn't say that; not to my knowledge.

Q. So the only agent outside of the International people in Jefferson City was for the Walter A. Woods machine? A. That is the only agent to my knowledge.

Q. They don't sell binders? A. I just said they sold two Walter A. Woods machines, binders.

Q. When did they establish an agency there? A. I couldn't tell that.

Q. Have they been there some time? A. I couldn't tell that; I don't know.

Q. You say that you don't have to pay for help when it comes now; you didn't have to pay for help for selling machines prior to 1903? A. No, sir.

Q. In that respect, so far as the cost is concerned, it is the same? A. It is all the same.

Q. You say that you can get a man quicker now than you could before? A. Yes, sir.

Q. Isn't it because the independent companies have all been centered in one, and there is no competition among the companies? A. I don't quite understand you.

Q. While the independent companies were running prior to 1903 there was competition going on among the companies themselves? A. Yes, sir.

Q. And it required more men to handle that competition for the companies? A. Yes, sir.

Q. But now there is no competition among the companies at all, is there, practically none? A. There is competition the same as usual between the dealers.

Q. The competition that goes on now is between the dealers, and not between the companies? A. Yes, sir.

(Witness excused.)

L. E. STROTHKAMP, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. L. E. Strothkamp.

Q. Where do you live? A. Baldwin, Missouri.

Q. How far is that from St. Louis? A. About 20 miles.

Q. What business are you in? A. General merchandise.

Q. How long have you sold harvesting machines? A. Nineteen years.

Q. What machine do you sell now? A. The Milwaukee.

Q. What other machines are sold in your territory? A. The McCormick and the Champion.

Q. The Johnston in your territory? A. Perhaps; I might say that the Johnston is sold on the outskirts of my territory.

Q. Any others? A. No, sir.

Q. You sell what? A. The Milwaukee.

Q. Who fixes the prices at which you sell? A. Who fixes the prices?

A. Yes. A. The International Harvester Company.

Q. They fix the price at which you sell to the farmer? A. No; I do.

Q. At whose dictation or suggestion do you fix the price? A. At my own.

Q. Anybody else? A. No, sir.

Q. Have you got any set price on binders and mowers? A. No, sir; we have not; that is, you mean the price that I sell at?

Q. The price that you sell to the farmer? A. Yes, sir; I have.

Q. When you sell to the farmer, do you always sell at the same price to every farmer? A. I do as near as I can.

Q. I want your course of practice? A. Yes, sir.

Q. When you come into competition with other machines, do you make any decrease to the farmer or have you got a fixed price? A. I have a fixed price; of course, no machine dealer will let a sale slip for a dollar or two; I try to get my regular price to make my profit.

Q. Suppose you wanted to cut the price \$15.00, are you free to do it? A. Yes, sir.

Q. When you fix a price, that is of your own volition? A. Yes, sir; nobody dictates to me at what price I shall sell.

Q. Where do you sell? A. You mean my territory.

Q. Is there any fixed territory in which you sell? A. My contract calls for Baldwin and vicinity.

Q. Suppose a gentleman from Marshall, Missouri, up in the interior of the State, Mr. Roberts, the stenographer, suppose he wants a machine, are you free to sell it to him? A. I would be in this way: provided no Milwaukee agent has a contract in that territory.

Q. Suppose a Milwaukee agent had a contract, what would keep you from selling to Mr. Major or Mr. Roberts, if you wanted to? A. Nothing much; he might not like it, if I would sell in his territory.

Q. How about repairs furnished to farmers now as compared with repairs to farmers before 1903, as to their price and accessibility, what have you to say? A. I can show you, I can't show you, but I can state to you that the repairs for the last year or two on the articles that wear out mostly have been reduced; that is a fact that I have spoken to many a farmer about; I may name you some certain particular pieces of the machine that wear out, for instance, sections, guards and sickle heads; they are lower than what they were several years ago.

Q. Do you have to pay anything for all the repairs that you want to keep on hand? A. That is our own wish; we have some commission repairs and some net; at the end of the season, if some of the net repairs are on hand, we have the choice to pay for them or send them back.

Q. You have as many repairs as you like shipped to you? A. Yes, sir.

Q. And hold them on commission? A. Not all commission; those marked net are supposed to be paid for or shipped back.

Q. You don't have to keep them? A. No, sir.

Q. What machine did you handle before the International Harvester Company was formed? A. The Milwaukee.

Q. Do you remember how the repairs were at that time, as to whether you had to pay for them or not? A. Yes, sir; we had some that we had to pay for.

Q. If you wanted repairs, as you ordered them, you had to pay for them? A. No, sir; we had commission repairs; but certain kinds we had to pay for at the end of the season, such as canvasses; they were either to be paid for or returned at that time.



## CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. The condition, before 1903, was exactly as now; you had to either pay for them or send them back at the end of the season? A. No; we have at present more repairs that are on the net list than at that time.

Q. But the repairs before 1903 that you had to pay for or return, you now have to pay for or return, don't you? A. With the exception that there are today more net repairs than there were at that time.

Q. You experienced no difficulty in getting repairs for the Milwaukee machine before 1903, did you? A. Not that I remember.

Q. You would simply make an order and get anything you wanted the same as now? A. Provided they had them in stock here, and didn't have to send for any stock.

Q. You say the Johnston machine is sold in your territory? A. On the outskirts of my territory.

Q. How far from your territory? A. About five miles, I judge.

Q. Is the International machine represented there? A. It is only a small place; only a blacksmithshop.

Q. They sell a few machines? A. I couldn't say how many.

Q. They don't sell enough to enable you to find out how many they are selling? A. Every agent finds out what the other agent is selling, all right.

Q. Do you know how many? A. Nothing except what I hear has been sold; I know they have sold a few.

Q. When you make a contract with the company through the blockman, he usually suggests to you the price that other agents are getting for their different machines, doesn't he? A. No, sir.

Q. Has he never told you the price that they were usually selling for? A. Not that I remember of; he has never dictated to me what a machine ought to bring.

Q. He knew that you were selling your machines at a fixed price? A. No, sir; he has never asked me.

Q. Has he never been with you? A. Very little.

Q. Well, has he ever? A. Yes, he has at times.

Q. When you fixed the price on your machines? A. When he got to my place to go out with me he asked what I was selling my machine at.

Q. And that was your regular fixed price? A. Yes, sir.

Q. And it is very seldom that you vary from that? A. We can't; we make the price as small as we can.

Q. What is the price of the six-foot binder? A. This year?

Q. Yes. A. I sold them at \$130.00, with a discount off for cash.

Q. That is your fixed price? A. Yes, sir.

## RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. How much is the discount? A. Five per cent. The reason I said \$125.00 first, I very often price a machine at that to a man, \$125 cash and \$130 on time, but I tell you \$130 is the regular price on a machine subject to a discount of five per cent.

Q. How big is Baldwin? A. The population is about 200.  
(Witness excused.)

J. S. BAUMANN, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. J. S. Baumann.

Q. Where do you live? A. Creve Coeur.

Q. How far is that from the city of St. Louis? A. Fourteen or 15 miles.

Q. What business are you in? A. Hardware and undertaker.

Q. How long have you been in that business? A. Twenty years, about.

Q. What harvesting machine have you handled? A. The Milwaukee.

Q. All the time? A. Yes, sir.

Q. What other harvesting machines are handled in your vicinity?

A. The McCormick and Deering, principally.

Q. Is the Johnston handled there at all? A. There is a Johnston agent five or six miles from me.

Q. Is the Acme handled there at all? A. No.

Q. The Walter A. Woods? A. No.

Q. The Dane? A. None, except only the International and the Johnston; that is all.

Q. Who fixes the price at which you sell your harvesting machines to the farmer? A. The retail price?

Q. The retail price to the farmer? A. I fix it.

Q. Who tells you what to fix it at? A. Nobody.

Q. Is it always the same, or do you vary it? A. Well, I fix that myself; if I think I can get more, I get it; it seems that I get more than other agents, anyhow.

Q. Do you handle other goods besides the International Harvester Company's lines? A. Yes, sir.

Q. Do you remember when there used to be in your contract an exclusive clause which required you to handle only the International Harvester Company lines? A. I think there was a clause like that in it, but I never paid any attention to it; I never intended to handle any others.

Q. What other lines do you handle? A. Plows, harrows, etc.

Q. You handle implements that are made by other manufacturers than the International Harvester Company? A. Yes, sir.

Q. Have you always done that? A. Yes, sir.

Q. Where do you sell, within what territory? A. Oh, well, I have no limited territory.

Q. You mean, you sell wherever you want to? A. Yes, sir.

CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. There is nobody selling machines at Creve Coeur where you live save and except the International Harvester Machine Co.? A. What is that?

Q. There is not anybody selling a machine at the town where you live save and except people who sell the International Harvester Machine? A. There is another agent, a neighbor of mine is selling the McCormick machine.

Q. That is made by the International Harvester Company? A. Yes, sir.

Q. There is no independent company selling machines there at all? A. Not at my place; no, sir.

Q. When you told Judge Spencer a moment ago there was a Dane, that is a mower and not a binder? A. I know.

Q. It is a mower, isn't it? A. Yes, sir.

Q. Did anybody suggest to you the price of what machines ought to be sold at? A. Not lately.

Q. When did the block agent quit telling the price that a machine should be sold at? A. I don't remember that they ever dictated; in fact, I asked him once what would be the right price, and he suggested some price, I don't remember no more how much; in fact, I never have paid much attention to that.

Q. You don't sell any machines—or have you sold any machines save and except the International Harvester Company's machines? A. Since they are in the trust?

Q. Yes. A. No; and never before, either, except I sold a Plano one time.

RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. How big is Creve Coeur? A. Oh, two or three hundred.

J. B. MARCHENS, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. J. H. Marchens.

Q. Where do you live? A. Marchens, Missouri.

Q. How far is Marchens, Missouri, from St. Louis? A. Twenty-seven miles.

Q. How big is it? A. Sixty.

Q. What relation are you to Henry Marchens? A. That is my brother.

Q. Are you and he in business together? A. No, sir.

Q. Is he in the harvesting machine business too? A. No, sir.

Q. How big do you say Marchens is? A. Sixty inhabitants.

Q. That is, when you are away there are only 59? A. That is all.

Q. What machines are handled there at Marchens? A. The McCormick.

Q. You handle that? A. Yes, sir.

Q. You are the only dealer there? A. Yes, sir.

Q. In your territory what machines do you come in competition with? A. With the Deering and Plano.

Q. Are any Johnstons sold in your territory? A. No, sir.

Q. Acmes? A. No, sir.

Q. Walter A. Woods? A. No, sir.

Q. Any Standard mowers, Dane mowers? A. No, sir.

Q. Who fixes the price at which you sell your goods to the farmer? A. I do myself.

Q. Who suggests that price to you? A. Nobody.

Q. You make the price at what you like? A. Yes, sir.

Q. Is it uniform or does it vary with the circumstances? A. It varies.

Q. Sometimes more and sometimes less? A. Yes, sir.

Q. Where do you sell, within what territory? A. Any place in St. Charles county.

Q. Supposing some man from the next county, or two counties away, wants a machine and you happened to be talking with him? A. The trouble with me is there are rivers on both sides, and I have to go over.

Q. Suppose you happened to be on the other side of the river and you happened to be talking to him? A. I would sell to him.

Q. In other words, has there been any territorial lines established that would confine you? A. No, sir.

Q. How long have you been in the business? A. Fourteen years, 14 seasons.

Q. As a matter of fact, some agents sell pretty close to your town, don't they? A. Yes, sir; I have had them sell McCormicks right at my door from St. Charles.

Q. Who was that? A. Ruge.

Q. Right at your door? A. Yes, sir; right in the town.

Q. By the tone of your voice I should infer if you ever got a chance at St. Charles you would do the same? A. Well, I did; I sold right up by his town.

Q. You have been in business for fifteen years? A. Fourteen years.

Q. You sell other agricultural implements besides harvesting machinery? A. Yes, sir.

Q. Do you sell lines manufactured by any other company than the International Harvester Company? A. Yes, sir; I sell Avery goods.

Q. What are they? A. That was a threshing concern, and I sell cultivators and wagons.

Q. Whose cultivators? A. Avery's.

Q. Whose wagons? A. Avery's.

Q. In some of the lines you deal in the International Harvester Company's goods and in some others in other manufacturers? A. Yes, sir.

Q. What has been the course of the price of other agricultural implements outside of harvesting machines in the last six years, since 1903? A. They have advanced.

Q. How much in per cent. about? A. I guess around on an average of 8 or 10 per cent., some more and some less; that is about an average.

Q. How about wagons? A. Wagons have advanced more than 10 per cent.

Q. How much would you say? A. Wagons, I suppose, have advanced about 15 per cent.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Do you mean to say that the prices made on wagons by the International Harvester Company have advanced that much, or do you know about that? A. I don't know about that.

Q. You mean in a general way that the prices of wagons have increased, but you don't know how much the International Harvester Company have increased, the prices on their wagons? A. No, sir; I do not.

(Witness excused.)

JOSEPH PONDRON, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. Joseph Pondron.

Q. Where do you live? A. At Cross Keys.

Q. How far is Cross Keys from St. Louis? A. Fifteen miles.

Q. How big is it? A. About 25 inhabitants.

Q. What machines are sold in your territory? A. The McCormick.

Q. Any other? A. Yes, sir.

Q. What others? A. The Deering.

Q. What others? A. And the Johnston.

- Q. The Deering, the Johnston and what other? A. The Aeme.
- Q. What other? A. That is all that I know of now.
- Q. How many dollars worth of repairs do you carry in stock?
- A. About \$300.00.
- Q. How many do you sell a year? A. About \$150.00.
- Q. Do you carry repairs for other machines besides the McCormick, that you handle? A. No, sir; I never carried any.
- Q. You only handle the McCormick? A. Yes, sir.
- Q. And within what territory do you sell the McCormick? A. They call it Cross Keys and vicinity; I usually work from Florissant over to the Missouri river; my territory, I guess, is three miles square.
- Q. Suppose a man 15 miles from your territory wanted a machine and you were talking to him—
- Hon. E. W. Major, counsel for informant:
- Objects to the question as calling for a supposition and a future act, and the witness's own interpretation.
- Hon. Theo. Brace, Commissioner:
- Go on and get the facts.
- Hon. Selden P. Spencer, counsel for respondent:
- Q. Who fixes the price at which you sell? A. I do.
- Q. Does anybody suggest them to you, or dictate them to you?
- A. No; never did.
- Q. Do you sell at a fixed price, or does it vary? A. It has varied; I have sold some cheaper and some more; it is just how a man pays for it; a cash man can get a little better price than one that wanted time.
- Q. Do you sell twine? A. Yes, sir.
- Q. And mowers and wagons and spreaders? A. Yes, sir.
- Q. What line do you sell in those? A. I sold the Parlan & Orndorff plows.
- Q. And whose twine? A. Some St. Louis Twine Company, Twine and Cordage Company, and some McCormick or International Harvester.
- Q. Are some of the lines the agricultural goods of the International Harvester Company? A. Yes, sir.
- Q. And some of other concerns? A. Yes, sir.
- Q. Who carries insurance on machines now? A. The Harvester Company does now.
- Q. Did they always do it? A. No, sir.
- Q. Do you remember when the change was made? A. No; I don't remember exactly.
- Q. Who used to carry the insurance? A. I used to.
- Q. That is the dealer? A. Yes, sir.
- Q. Is there any charge made on you now for carrying the insurance? A. Not that I know of.
- Q. At whose instance did it used to be carried? A. At my own instance.

## CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. The Harvester Company owns the machines, and they are simply insuring their own property? A. Yes, sir.

Q. Before 1903 they did not require you to insure the property, did they? A. I think it was in the contract; it seems to me it was; I am not sure.

Q. You don't have any recollection really about it? A. Yes, sir; I think I remember it was in the contract.

Q. Did you have written contracts then? A. Yes, sir.

Q. You wouldn't be positive that was in your contract? A. No; I wouldn't be positive.

Q. Do you sell binders much about your place? A. Yes, sir; a good many; I average six and eight a year, and have sold as high as fifteen in one year.

Q. When a cash man buys a machine, all cash men get the machine at the same price? A. They get it a little less than a credit man.

Q. All cash men get their machines at the same price, and all time men get their machines at the same price? A. Yes, sir.

## RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Is there one fixed price for cash men and one fixed price for time men, irrespective of competition? A. No, sir; there was not a fixed price; some years I had to sell cheaper than others to get trade.

Q. Leave out the years, take the same year, is it the same price to every man? A. Yes, sir.

Q. Or does the price vary with circumstances? A. No; it is the same price on every one; that is the way I sold.

Q. Who fixed that? A. I did.

Q. Was there any suggestion about that from anywhere else? A. No, sir; never was.

Q. The machines that you handled prior to 1903 were owned by the company until you sold them, weren't they? A. Yes, sir.

(Witness excused.)

JOHN L. SHULTZ, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. John L. Shultz.

Q. Where is your home? A. Fredericktown, Mo.

Q. How far is that from St. Louis? A. One hundred and four miles, railroad schedule.



Q. How big is Fredericktown? A. Well, I think we have nearly 3,000.

Q. What harvesting machines are handled in Fredericktown? A. The McCormick, the Deering, the Plano, the Osborne, the Milwaukee, the Johnston, and the Dane.

Q. Is the Dane a binder or mower? A. A mower.

Q. What do you handle? A. The McCormick.

Q. Do you handle a full International line or do you have parts of other companies' lines? A. I have parts of other companies.

Q. Whose wagon do you handle? A. I build my own wagon; I have had a few of the Internationals and a few of the others.

Q. What line did you handle? A. The Moline.

Q. What line of agricultural implements did you handle besides the International Company's line? A. Nothing but the Moline and a few of Blont's plows.

Q. Who sells the Dane down in your place? A. John C. Rainey.

Q. Does he sell any International machines? A. He sells the Osborne and the Dane.

Q. Who sells the Johnston? A. The Western Implement Company.

Q. Do they sell any other than the Johnston? A. No, sir.

Q. What is your territory? A. It is supposed to be Fredericktown and vicinity, but wherever I can sell a machine I sell one.

Q. You have been in the business since 1902? A. 1902.

Q. What has been the course of the prices on other farm implement since 1902 until now, outside of harvesting machines? A. All other things have advanced a little.

Q. What per cent. would you say? A. I don't know.

Q. How much have wagons advanced? A. Somewhere from eight to ten per cent.

Q. That is, your price on wagons has increased 8 to 10 per cent.? A. That is the wholesale price.

Q. You make your own wagons? A. Yes, sir; we have only advanced about \$2.00; only built a few.

Q. How about other farm implements like harrows, drills and hay rakes? A. Drills have advanced, I think, fully ten per cent.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revell:

Q. Who handles the Johnston there? A. The Western Implement Company.

Q. How long? A. This is the third season.

Q. You don't find him a very formidable competitor? A. No, sir.

Q. Your principal competitors there are the agents who handle the International machines, are they not? A. In that line, there is the Deering; they have been my strongest competitors this season; last season there was not much difference.

## RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Why is it that the Johnston man is not your strongest competitor?

Hon. E. W. Major, counsel for informant:

Objects to the question.

Hon. Theo. Brace, Commissioner:

You need not answer that.

(Witness excused.)

At this point the further taking of testimony was adjourned until 10 a. m., October 19th, 1909, at the Mark Twain Hotel in Hannibal, Missouri.

D. E. NICE, of lawful age, being duly sworn on his oath, testifies as follows, on behalf of the respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. D. E. Nice.

Q. Where do you live? A. Moberly, Missouri.

Q. How far is Moberly from here? A. About seventy miles.

Q. What business are you in? A. I have been in the hardware and implement business until recently, I sold out.

Q. You are a county judge there now? A. Yes, sir.

Q. What county is Moberly in? A. Randolph.

Q. You say you have recently sold out? A. Yes, sir; I recently sold out my hardware business, I am still selling implements.

Q. You have been in that business how long? A. For a long time, thirty-eight years.

Q. Do you sell harvesting machines? A. Yes, sir.

Q. All kinds? A. Yes, sir; I have been selling them.

Q. All kinds of farm machinery? A. Pretty much all kinds.

Q. Wagons? A. Yes, sir.

Q. That is the center of a farm community, I presume? A. It is a farm community around us; yes, sir.

Q. You have lived there the last quarter of the century? A. Yes, sir, and more.

Q. Who fixes the retail price at which you sell harvesting machinery? A. Well, I do, as far as I can on what I sell. My competitor has a hand in it sometimes.

Q. What do you mean by as far as you can? A. There are other implements sold there and I cannot sell mine very much higher than they do theirs.

Q. With whom rests the final decision as to what your retail price shall be? A. Myself.

Q. Anybody else? A. No, sir.

Q. Is there any fixed price or is it a variable price? A. It is variable; yes, sir; we aim to have a fixed price but there is a variation according to the competition.

Q. What is the nature of the competition in harvesting machines in your locality as far as the farmer is concerned now today, and for the past five or six years? A. Well, I sell the McCormick reapers and mowers; The Globe Mercantile Company are agents for the Deering, and a man by the name of Berry, who lives close to Moberly, sells the Johnston; Thompson & Son sell the Standard, they are only mowers, they are agents for them.

Q. What is the nature of the competition? A. Well, I don't know exactly how to answer that, just exactly what you mean. I sell all I can and other fellows sell all they can, all of us aim to get the best price we can but sell.

Q. Has there been any increase in the price at which you buy harvester machinery since the International Harvester Company was formed in 1902 up to 1907, for the season of 1908? A. 1902 to 1907, no, sir; I believe the prices were just the same.

Q. 1907, you mean for the season of 1908, I presume? A. Yes, sir.

Q. Up to last year there was no increase in the price at all in harvesting machinery? A. I declare I have forgotten whether last year or the year before, it has been only in the last year or two that there was any increase at all.

Q. What is the fact in regard to other farm machinery outside of the harvesting line, rakes, harrows and plows, outside of wagons, never mind about wagons, outside of wagons? A. All implements have advanced considerably in the last six or seven years.

Q. What do you mean by considerably, in per cent., how much in per cent.? A. I would be safe in saying ten per cent.

Q. Is that the minimum or maximum, or what? A. I would say from ten to fifteen per cent.

Q. How has it been in regard to wagons? A. Wagons have advanced considerably more; I think they have advanced from 25 to 40 per cent, 20 to 35, anyway.

Q. How is it in regard to the price of products of the farm, either grain or animals, eggs, everything produced on the farm, how is the price now as compared with eight years ago? A. It is fifty to one hundred per cent. higher on all of it practically.

Q. Judge Nice, you handle the McCormick? A. Yes, sir.

Q. Your competitors in your town you say are the Deering, the Johnston and the Acme? A. Yes, sir.

Q. Is there any difference in the machine, the McCormick machine, now from eight years ago? A. Yes, sir; the McCormick is a better machine than it was eight years ago, it has been improved considerably, the mower and reaper both.

Q. What has been the treatment of the farmer by the company during the last eight years in dealing in harvesting machines? A. Well, they have been treated all right.

Hon. E. W. Major, counsel for informant:

Objects to the witness expressing an opinion.

Q. I do not want your opinion, in one sense I want your opinion because you are an expert in the matter. What has been the nature of the treatment compared with the treatment in former years?

Hon. E. W. Major, counsel for informant:

Objects to the question as calling for an opinion of the witness on a matter not germane to the issue and wholly immaterial.

Hon. Theo. Brace, Commissioner:

Suggests that you put your questions in a form so that the witness can answer it, by counsel asking what have been the facilities supplied.

Q. How is the farmer situated today with regard to harvesting machinery as regards the character of it and of repairs and of the general use he has of harvesting machinery? A. My experience has been that the farmer gets his machinery, if he orders repairs of a mower he can get them promptly, and the dealer in selling the machine is not afraid to guarantee it or afraid to pay for the broken parts.

Q. You say he is not afraid? A. I am not afraid to, for defects or carelessness in handling the machine, I will furnish it for nothing.

Q. Why are you not afraid to make the guaranty? A. Because when settling time comes I charge them for it, and they allow it.

Q. Charge who for it? A. The company.

Q. How about the condition of canvassers and experts coming into your territory to set up or explain the machine or repair them when the necessity occurs, what is the general condition in regard to that? A. I do not see how it can be better. In setting up machines I do not need much assistance, they would send a man there if I wanted it, and if I put it up myself they will allow me for setting it up.

Q. When you want an expert to set a machine up, he comes when you want him? A. Yes, sir.

Q. And if you set it up yourself you are allowed what? A. I am allowed \$2.00 for setting up a binder.

Q. How long has that rule been in force? A. Two or three years.

Q. How did it use to be? A. It used to be a McCormick man would set up a sample for us and let us hoe our own row after that.

Q. Before the International Harvester Company was formed the individual companies would set up a sample machine and let you hoe your own row? A. Hoe your own row.

Q. Now you say they set up as many machines as you want or after that if you do not call on them and are able to set them up yourself they make you an allowance of \$2.00 a machine? A. Yes, sir.

Q. How about the repairs and harvesting machines that you have in your stock, how do you handle them, do you buy them outright? A. No, sir.

Q. How do you handle them? A. They are on commission and I pay for them when I sell them.

Q. Is that true of all harvesting machinery you get from the International Harvester Company? A. Yes, sir.

Q. Is it true of all repairs? A. Yes, sir.

Q. What is the effect of that as to the amount of harvesting machinery you actually carry and the amount of repairs you actually carry in stock? A. Well, we let them send all the machines they want to.

Q. When? A. In the spring.

Q. Now? A. Yes, sir; when it is on commission. If we had to buy them we would only buy what we were certain we would sell or quite certain we would sell.

Q. Can you tell the commissioner how much larger quantity of machines and repairs you keep in stock under that arrangement than what you would if you had to buy them? A. Well, if I had to buy them I would be careful not to buy more than I thought I could sell, I would buy the staple articles most liable to wear out or break, and in machines we would not buy anything but samples to start with, and sell from the samples.

Hon. Charles G. Revelle, counsel for informant:

It does not occur to me this is competent and material in the absence of a showing that the same condition did not exist before 1902.

Hon. Theo. Brace, Commissioner:

How can I fix the order in which the testimony will be introduced? I can hardly fix the order in which it will be introduced. It will not amount to anything unless it is proved.

Hon. Selden P. Spencer, counsel for information:

We are charged from 1902 with a restraint of trade, and if we are able to show that every good feature prior to 1902 was continued after 1902, it will show there was no restraint.

Hon. Selden P. Spencer, counsel for informant:

Can you give the commissioner some idea of the amount you would carry in stock in per cent.?

A. We would not carry anywhere within 25 or 50 per cent. of what we do carry.

Q. How about the allowance made to dealers in repairs now, the commission allowed to dealers in repairs they sell now as compared with prior to 1902? A. They have always furnished any repairs that were defective.

Q. I meant the allowance you get when you settle? A. I don't say positively I remember, but I believe it is just about the same.

Q. How much are you allowed now? A. Twenty-five per cent.

Q. The price at which a harvester, either a corn binder or grain binder, now sells for is what? A. The price which you pay for a harvester you buy now, either a corn binder or a grain binder is how much? A. A six-foot grain binder is listed at \$107.50 I believe.

Q. Anything off for settlement? A. Seven per cent. off.

Q. That is the price now? A. Yes, sir.

Q. That has been the price for the last couple of seasons? A. Yes, sir.

Q. Prior to that during the time the International Harvester Company was in existence, what was the price? A. I believe it was \$100, five per cent. off.

Q. That is, then the price when the harvester company started in 1903, was \$100, five per cent. off, \$95.00 for cash? A. Yes, sir.

Q. That continued the same until the last season, or the season before, you are not sure about the time? A. Yes, sir.

Q. Then there was an increase from that price to \$107.50 with seven per cent. off? A. Yes, sir.

Q. How is it with regard to mowers? A. Mowers, five and six foot mowers I believe now are \$34.00 and \$36.00 with five off, and now it is \$38.50 with seven off.

Q. The price before before the raise was \$36.00 and \$34.00? A. Yes, sir.

Q. That was \$36.00 and \$34.00 with five off? A. Yes, sir.

Q. With no raise until the last season or two, then it was \$38.50 with seven off? A. That is right.

Q. Do you handle yourself other lines of harvesting machinery outside of that made by the International? A. I have; yes, sir.

Q. What? A. I have handled the Keystone one time, and have handled a whole lot of different machines?

Q. Do you handle them now? A. Only the McCormick.

Q. What do you handle in farm implements? A. The John Deer entire line, buggies, plows, cultivators and discs.

Q. Do you get them on commission? A. No, sir.

Q. With other farm implements you have to buy them outright? A. Yes, sir.

Q. Have you ever been solicited by any other company, the Standard, or Acme or Walter A. Wood, to act as their agents? A. Yes, sir; their agents come very frequently.

Q. Do they do it now from time to time? A. Last year they did.

Q. Why don't you take them? A. I like the McCormick, I have been selling the McCormick a long time, I have got it pretty well introduced.

Q. What do your customers want? A. My customers want the McCormick after I get through with them.

Q. What is the best machine?

Hon. Charles G. Revelle, counsel for informant:

Object to the question.

Court:

Objection is sustained.

Q. You said something about the price of wagons increasing, what per cent? A. From twenty to forty per cent.

Q. Can you give me the specific figure on any make of wagons, the price eight years ago and now? A. Yes, sir; the Studebaker, for instance, I remember buying the Studebaker at \$48.00  $3\frac{1}{4}$  wagon, I believe the bottom price on it now is \$68.00 in carload lots, and \$71.00 in single wagons.

Q. Judge Nice, what is the practice in dealing in harvester ma-



chines if a farmer comes into your place, into your store, and wants a Walter A. Wood, which I understand is not handled in your territory, and wants that, you have said you tried to sell the McCormick, suppose he wants a Walter A. Wood? A. If there was not any goods around to sell, get them a Walter A. Wood, if there was no other agent there for it.

Q. Whatever machine, after making your representation, trying your best to sell the machine, whatever machine the farmer really wants you get it for him? A. If there is no other agent for them.

Q. Is there any difference in the way you handle harvesting machinery, and the way you handle stoves and cutlery or other products in your store?

Hon. E. W. Major, counsel for the informant:

Objects to the question, let the witness state the facts.

Court:

Objection is sustained.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. What machines, harvesting machines, self-binders, are sold in your town, what different makes? A. Well, there are agencies for three or four different makes, the Deering and McCormick are the only two that are sold.

Q. There is an agency for the Deering machine and an agency for the McCormick? A. Yes, sir.

Q. And no agency for the sale of other machines? A. I think an agency for the Milwaukee.

Q. The Milwaukee is the fourth? A. You have only named three, what is the fourth. Speaking of competitors in the county, the Standard.

Q. I am asking you about the town in which you live? A. The Standard.

Q. The Standard? A. Yes, sir.

Q. That is a mower not a harvester? A. A harvester, a mower.

Q. A self-binder? A. It is a mower.

Q. I am speaking of binding machines? A. There are not any other binders.

Q. The Deering, McCormick and Milwaukee? A. Yes, sir.

Q. Is there any other agency for binders? A. I really do not think there is.

Q. So the only agencies in your town for harvesting machines is the Deering, McCormick and Milwaukee, and all three of those are manufactured by the International Harvester Company and sold by that company only? A. They are the only agencies I know of in Moberly.

Q. Those machines are all sold by the same company? A. I suppose they are, yes, sir.

Q. And in your town there is no other competition in the sale of binding machines? A. In the corporate limits, no, sir.



Q. Now you say you have been solicited to sell other binding machines? A. Yes, sir.

Q. Why didn't you take the agency? A. Well, as I remarked, I have been identified with the McCormick Harvester Company a good long while, and I like the machine and I can sell it easier than any other machine.

Q. Now prior to 1902, the three machines you have named were sold in Moberly, were they not? A. I don't think they were. The Deering was not sold there, but there may have been an agency there for it, there may have been an agency for the Milwaukee and others; the Wood was there I know, but they did not sell any machines; the McCormick was the only machine sold three or four years ago.

Q. So prior to 1902 you did not know anything about the condition of competition between the various companies in your locality? A. In my locality I did, yes, sir.

Q. The competition prior to 1902 in your locality was between what machines? A. Between the Wood, the Deering was sold at Higbee and two or three machines were sold in Huntsville, they are towns in five or six miles of there.

Q. So the McCormick machine came in business contact, competition with three or four other machines? A. With the Milwaukee and Deering, there were agencies about there.

Q. They were independent companies at that time? A. I believe so, yes, sir.

Q. Each company had its own agent? A. Yes, sir.

Q. You went into the fields and competed in your prices? A. Yes, sir.

Q. Now, up to that time and prior to 1902 those machines were left with you on commission to be sold just as they are now? A. Yes, sir.

Q. And repairs were left with you and then to be sold on commission just as they are now? A. Yes, sir.

Q. So far as the ownership of the property was concerned and the terms on which you held the property for sale they were the same prior to 1902 as now? A. About the same, yes, sir.

Q. Prior to 1902 these various companies at times would give you cuts in machines, wouldn't they? A. Not that I remember of.

Q. Not that you remember of? A. No, when we settled we settled at our contract price, no difference what we sold at.

Q. If you came in contact with other machines and have any recollection about it at all, don't you know the company did authorize you to make cuts when you came in contact with the sale of another machine? A. Not me.

Q. The company never at any time cut prices of machines to you? A. I don't remember their cutting, I remember cutting frequently but I had to pay the same price at settling time.

Q. Did the company ever take any machine off your hands? A. Never.

Q. The company's price to you now on machines doesn't vary, does it? A. No, sir.

Q. They make you a uniform price? A. Yes, sir.

Q. And when they organized in 1902, don't you know the first year, or the year of 1903, they cut the price of their machine from \$100.00 to \$95.00? A. That was for cash, the \$95.00 was for cash, a discount. There has been a cash discount all the time. The conditions were and are that if we sold a machine on time to the farmer and turned in the farmer's note it was \$100.00 and if we kept the farmer's note and turned in cash to the company we got \$5.00 off.

Q. In other words, if you didn't have to keep the farmer's note, you didn't pay cash until settlement time? A. Until settlement time, that is right.

Q. You make your sales in the spring? A. Yes, sir.

Q. And didn't have to settle until fall? A. No, sir.

Q. If you kept the farmer's note, you got the machine for \$95.00? A. Yes, sir.

Q. Precisely the same condition exists now, but not the same price? A. The difference is \$107.50 now and \$100.00 then, seven off now and five off then.

Q. Suppose you keep the farmer's note now? A. I would get seven per cent. discount for cash.

Q. Seven per cent. discount for cash? A. Yes, sir.

Q. If you had a seven-foot McCormick binder and sold it, when the settlement time came and you kept the farmer's note, how much did you pay the company? A. \$107.50, less seven per cent.

Q. Now then, in 1903, when you say you kept the farmer's note, you settled with the company at \$95.00? A. Yes, sir.

Q. The seven per cent discount did not apply? A. No, we got five off of \$100.00.

Q. In other words, you settled with the company at \$95.00? A. \$95.00.

Q. You knew in 1903, when you settled with the company at \$95.00 that that \$95.00 included the transport upon which the machine went, that had sold for \$3.00 or \$4.00 didn't it? A. My recollection is, it did.

Hon. Theo. Brace, Commissioner:

You mean the trucks on which the machine runs?

Hon. E. W. Major, counsel for informant:

The truck on which it runs.

Q. The truck on which the machine is moved? A. Yes, sir.

Q. When you settle with the company and pay \$107.50 less seven per cent. it does not include the truck, does it? A. I had an idea it did, but an agent and I were talking about it last night and he says there was \$3.00 in it, but I never noticed it.

Q. So on that proposition you don't know? A. I didn't know the truck was extra until they told me last night, an agent told me it was.

Q. Did you buy any trucks? A. Yes, sir.

Q. Did you sell the trucks? A. Yes, sir.

Q. The question did not impress you enough to remember? A.

I have got it in my head yet, I didn't get but \$107.50 for the truck and all.

Q. Do you know of any other agent in the state that did not pay \$3.00 extra? A. No, I don't know anything about other agents.

Q. You say you get machines promptly now, you had no trouble getting machines before 1902, did you? A. No, sir.

Q. Has there been any difference along that line? A. Not along that line.

Q. In 1903 when you were able to settle at \$95.00 prior to that time, the price was \$100.00 when sold? A. The price was \$100.00, five per cent. off, cash for settlement.

Q. That was prior to 1902, before the International was formed? A. That was prior, that has been the case all the time prior to 1907, I might say.

Q. 1907? A. 1907, yes, sir.

Q. And even prior to the formation of the International Harvester Company? A. Yes, sir.

Q. The increase in the price of the machine came in 1908? A. About then, yes, sir.

Q. The increase of the price of the machine at that time was \$7.50?

A. The list, on the list, yes sir.

Q. And when the truck was included the increase of the price was \$10.50? A. As I remarked a while ago, it is news to me, I never noticed it.

Q. At least you say the increase was \$7.50? A. Yes, sir.

Q. And that price, or \$107.50 which the company makes is the uniform price to you, you do not get any cut from it? A. I got seven per cent.

Q. You have stated that, outside of that the terms do not vary?

A. Do not vary.

Q. The increase of \$7.50 came as one increase? A. One increase.

Q. At one jump? A. Yes, sir.

Q. What would have been the effect, so far as the purchasers of the machine are concerned, if the company had made an increase of \$25.00 instead of \$7.50? A. I will give it up, I don't know what the effect would have been.

Q. There was no other place for him to buy a machine other than this at your town, was there? A. Yes, sir; he could have gone to Cairo and bought a Johnston.

Q. But the farmer would have been unable, as you say, to get the best machine? A. That is according to my notion, yes, sir.

Q. The best standard machines are made by the International Harvester Company? A. I understand what you mean by standard. Some of the best machines are made by the International Harvester Company, yes, sir.

Q. Tell the machines that the International Harvester Company make? A. Well, I say they make the McCormick, I believe they have got five or six machines, the McCormick, the Deering.

Q. The Milwaukee? A. The Milwaukee.

Q. The Plano? A. The Plano, yes.

Q. They sell the Osborne? A. I think they do.

Q. They will comprise at least 85 or 90 per cent. of the machines sold to farmers, will it not? A. It will comprise possibly 75 per cent.

Q. Seventy-five per cent of the machines sold to farmers? A. Yes, sir.

Q. They are all sold by the same company and that company can arbitrarily fix its price on those machines? A. They are all sold by the same company.

Q. What other makes of machines are sold in this country outside of those sold by the International people? A. What other machines are sold by the International Harvester Company?

Q. No, by other companies outside of the International? A. I declare I could not name them. I can name the Johnston, that is the only one I come in competition with.

Q. There are but few Johnstons sold you say which come in competition, it has no agency in your town? A. No, it has two or three in the county.

Q. No agent close to Moberly? A. In Cairo, one in Cairo and one in Huntsville, I believe.

Q. Do you know what per cent. of machines they sold, that machine is sold in your immediate vicinity? A. No, I don't think they have sold the last season but two or three machines, two or three harvesters.

Q. How many did you sell? A. I believe it was eight.

Q. You sold eight? A. Yes, sir.

Q. Do you know of any other machines sold by the International people there outside of your eight? A. No, sir; no Deering sold there, not in our town.

Q. No Milwaukee or Osborne? A. Not in our town.

Q. I will say in your county, do you know of any others? A. I know there were some sold in the county, but I don't know how many.

Q. Prior to 1902, there was in your county a pretty fierce competition between different independent companies for the sale of machines? A. The strongest competition I had in the county prior to 1902 was Mr. Sanderson at Huntsville. He sold the McCormick and I sold the McCormick.

Q. I asked for the fierce competition between your make of machine and the make of some other company? A. It was not very fierce.

Q. The competition is not fierce now then? A. No, sir; not very.

Q. You really have no competition? A. They all have died, in the morning, except the McCormick up in that county.

Q. When did you handle the implements of the Keystone people? A. I believe it was either three or four years ago, I forget which.

Q. They have a harvester machine? A. Yes, sir; but I didn't buy the harvester, I only bought the mower.

Q. Don't you know that the Keystone was owned at that time by the International Harvester Company? A. I don't think it was. I think they absorbed it afterwards.

Q. How long afterwards? A. Possibly the following winter.

Q. The line you handled along that line has been absorbed by the present company, the International Harvester Company? A. I understood the Keystone was, yes, sir.

Hon. Theo. Brace, Commissioner:

The Keystone, is it the Osborne machine?

Hon. E. W. Major, counsel for informant:

It is a different machine from any of them.

Charles G. Revelle, counsel for informant:

They do not make a binder and mower, they made up a binder but I do not think it was a success.

Hon. Theo. Brace, Commissioner:

It seems to be a new machine.

A. It has not any reputation at all, it is played out.

Hon. Charles G. Revelle, counsel for informant:

Q. It is a company that never got started doing business in the State? A. No, sir.

Hon. E. W. Major, counsel for informant:

Q. Prior to 1902 the agents of one binder could not take the agency of a binder for another company? A. Yes, sir.

Q. Did you have such an agency? A. Yes, I have had the Champion, Osborne and McCormick at the same time.

Q. That was prior to 1902? A. Yes, sir.

Q. Since 1902, you have only handled one? A. To amount to anything; the Keystone—

Q. You say it was not a success? Never went on the market? A. I had it.

Q. You had the mower? A. Yes, sir.

Q. Not the binder? A. No, I didn't buy any.

Q. Since 1902, you have never had but one agency for a binder?

A. I have had an agency, but had not the machine in the house.

Q. What machine did you have? A. The Osborne.

Q. What year? A. 1893 and 1894.

Hon. Charles G. Revelle, counsel for Informant:

Q. You mean 1903? A. 1903.

Hon. E. W. Major, counsel for Informant:

Q. Do you know when the International absorbed the Osborne?

A. They did not absorb it for quite a while after the company was formed, my recollection is.

Q. Don't you know the Osborne was absorbed by the International people in 1903, the next year after they organized? A. I think it was later than that; I think it was later than that; I am not certain.

Q. So if you sold the machine, it was impossible to have the agency of the Osborne after the International was organized, unless you handled it as International goods? A. Yes, I suppose they would be; I don't suppose they would give me the agency for two of their machines.

Q. When you handled it in 1903, 1904— A. Don't understand me to say I handled it; I was agent for it.

Q. When acting as agent for it in 1903, 1904, you were under the impression that it was an independent company? A. Well, I know there was a different agent came by; a traveling man came by giving me the agency; it was not an International Harvester Company man.

Q. You didn't know at that time it belonged to the International people? A. I didn't care.

Q. You represented it as not belonging to the International people? A. Yes, sir.

Q. You really thought you had the agency of another binding machine from an independent company? A. I never really paid any attention to the independent companies, the International company; I never paid any attention.

Q. You didn't know it belonged to the International people then? A. No, sir; I don't think I did.

Q. I believe you stated a while ago that the McCormick machine had been greatly improved since 1902? A. Considerably improved.

Q. I will get you to tell the improvement made in the machine. A. The tension; we got a new twine tension on it that anyone will admit is a great improvement; they have changed the knotter; they say that makes it better; I was partial to the old knotter, but the new knotter is evidently an improvement.

Q. In your community the competition that now exists is simply the competition between agents representing the same company, the International Harvester Company of America? A. Largely, yes.

Q. You testified a while ago about the increase of other farm machinery other than wagons; now, the increase in the price of that machinery came gradually year after year, did it not? A. To a considerable extent you might call it gradually.

Q. It has been increasing gradually for the last eight or ten years? A. Well, six or eight years anyway. I did not notice it as much prior to eight years ago.

Q. Have you thought over the matter of the truck business so as to refresh your memory since you were on the stand? A. Well, yes, I have thought a little about it, but I don't remember much about it yet.

Q. What will you say now about the truck? A. I rather believe I remember that when we got the truck they charged extra.

Q. Now, the reason you thought a while ago you got the trucks free was before the organization of the International Harvester Company of America; you got trucks free? A. When we bought them, yes.

Q. If you did not get them you got a reduction in the price of \$100.00? A. I don't remember.

Q. Now, prior to 1902, when this company, the International Harvester Company, was organized, of six-foot binders, you sold the McCormick? A. Yes, sir.



Q. The McCormick, including the truck, was \$100.00? A. The price was \$100.00.

Q. The same machine, including the truck, that cost you \$100.00 then now costs you \$107.50, plus \$3.00 for the truck, which makes \$110.50? A. If that is the way, yes, sir.

Q. In other words, this same machine and truck sold then for \$100.00, now there is an increase of \$10.50? A. Yes, sir.

RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Does the truck make any difference in the retail price to you men? A. No, sir; not a bit.

Q. So far as the farmer is concerned, it does not cut any figure? A. No, it is understood they go with the machine.

Q. Did I understand you to say that up to three, four or five years ago the McCormick was the only machine sold in your locality?

A. No, sir; not in the locality, in Moberly.

Q. Now, up to four or five years ago the McCormick was the only machine sold in Moberly? A. Yes, sir.

Q. Now there are how many? A. Agencies for three or four there, but understand they are not selling any machines to amount to anything.

Q. In other words, the farmer wants the McCormick? A. Yes, sir.

Q. Up to four or five years ago there was only one agency there?

A. I know I sold all the binders in Moberly, except on two occasions, in fifteen years, two Wood machines were sold.

Q. Now there are three or four agencies there? A. Yes, sir.

Q. The Johnston and Standard have no direct agents at Moberly? A. No, sir.

Q. So Moberly was about the only territory at which the Johnston and Standard was sold? A. Yes, sir.

RE-CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. You spoke a moment ago about there being no agency in Moberly, but there were machines sold in the territory in which Moberly is located? A. There were agents in Moberly all the time, but there was not any of them sold except two Wood machines.

Q. But their agencies were for machines that now belong to the International harvester people, too? A. Yes, sir.

Q. Prior to 1902, while there were no special selling agents in your town, yet there were machines sold in the territory? A. In the county, yes, but as I said before—

Q. To the same trade to which you sell from Moberly? A. Yes, sir; we go all over the county; sell anywhere in the county I can. There are two or three agencies of the McCormick machine in the county.



FRED WOLTER, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer

Q. What is your full name, Mr. Wolter? A. Fred Wolter.

Q. Where do you live? A. Knox City.

Q. How far is Knox City from here? A. Fifty-eight miles.

Q. What machine do you handle? A. The McCormick.

Q. How long have you handled it? A. Since 1896.

Q. Do you handle any other machine? A. Yes, sir.

Q. What other machine? A. The Standard.

Q. Is that a mower or harvester? A. A mower.

Q. Are there any other harvesters handled in your locality? A. Yes, sir; there are.

Q. What? A. The Johnston.

Q. Who handles the Johnston? A. Suvery & Son.

Q. How do you get the machines, on commission or by actual purchase? A. On commission.

Q. Does that have any effect on the amount of harvesting machinery you carry in stock? A. It does.

Q. What? A. If I bought them I would buy a carload, getting them on commission I get about four.

Q. How is that with repairs? A. Repairs, if I had to lay out the cash for repairs I would carry about a fourth of what I carry now.

Q. Mr. Wolters, can you give us any light as to what the prices of wagons have been in your territory in the last eight years, how it has varied? A. I can; yes, sir.

Q. What is it? A. Well, a wagon that we bought for \$48.00 about four years ago, \$48.00 to \$50.00, we have got to pay from \$65.00 to \$72.00 for today.

Q. Has that increase been gradual or by jumps? A. At about \$2.00 a jump; you might say gradual, yes.

Q. That is, a jump of \$2.00 would be on \$58.00, would be eight or nine per cent.? A. They would make ten per cent. jumps and also \$2.00 jumps; they changed it both ways until it got to 25 or 30 per cent.

Q. The increase would come in \$2.00 and ten per cent. jumps? A. Yes, sir; an advance sometimes of twenty per cent. in prices.

Q. At one time? A. Yes sir; at one time we had an advance of twenty per cent. on wagons.

Q. Who fixes the retail price at which you will sell your goods? A. I fix it.

Q. Does it vary? A. Yes, sir.

Q. Much? A. It all depends on how hard the competition is.

Q. Well, what is the competition in your territory now, what is the nature of it? A. The nature of it is simply this, that I have got several different makes to fight and other towns to fight, handling my own goods, right close to me.

Q. What different makes? A. I got the Johnston and I now have the Standard; I used to handle it myself; I have quit handling that; that is the only one in my town, the Johnston.

Q. What is your retail price? Can you give us some ideas as to how much it varies at what you sell? A. Well, do you want it on binders?

Q. Yes, on binders, six-foot binders. A. I establish my price on binders usually six foot at \$120 cash, \$125 on time and I get down as low as \$115 if I get in a close place.

Q. When was that? A. Every year I have done that.

Q. Every year? A. Yes, sir; of course, we were lower until we got the last rise, but the proportion was about the same.

Q. Was there any rise in the wholesale price of binders at the price at which you buy harvesting machines, except the rise in the last season a year ago, 1908, since the International was formed? A. On six-foot binders, no, sir.

Q. The same is true of mowers? A. Yes, sir; the same on mowers.

Q. You say the only competition is with the Johnston? A. In my immediate town.

Q. What other makes did you use to have? A. We used to have the Deering.

Q. What did you do with it? A. I put it out of business.

Q. You did? A. Yes, sir.

Q. Now you only have the Johnston? A. Yes, sir.

Q. Where do you sell, I mean to say, are you restricted in territory? A. No; my territory runs, I sell wherever I can get a deal; I always have done it.

Q. Do you know that exclusive agency clause in the contracts that used to be in the contracts? A. Yes, sir.

Q. It is not in there now I believe? A. No, sir.

Q. Do you know since 1902, let us get the date fixed, do you know of that exclusive agency being enforced?

Hon. E. W. Major, counsel for informant:

Objects to the question on the ground that it is not a question whether it was enforced or not enforced, because it speaks for itself, being a written instrument, it is a matter of law.

Hon. Theo. Brace, Commissioner:

Objections are overruled.

Q. Prior to 1902, say in 1900, what was the effect of that exclusive agency clause? A. In 1900 there was an exclusive agency clause whereby if a man would sell any other make of binder he would have to pay a forfeit of \$25.00, and I know of that being enforced, or tried to be enforced, at Warsaw; I was in the office at the time when the matter was brought up with the agent, Mr. Funston.

Q. How long have you handled this machine? A. Since 1896.

Q. How does the competition in the last six or seven years compare with before that time? A. I don't know that I can see any difference; it is just as hard to sell a machine now as it was before.

Q. The truck or transport, as it is sometimes called, is that a part of the machine itself? A. No, sir; it is not.

Q. What does it do? A. It carries the binder from one field to another.

Q. Is that always bought with the machine? A. No, sir.

Q. In some localities it is bought and in some not? A. Yes, sir.

Q. In your town, do you only have the Johnston? A. Yes, sir; that is all.

Q. What competition do you come against in your locality, in the vicinity in which you trade, in the territory in which you trade, put it that way? A. I come in competition at the present time with the Standard and with the Deering; I believe it is all.

Q. And the Johnston in your own town? A. Yes, the Johnston in my own town; I don't believe there is anything else handled in the two towns on either side of me.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Do you mean there is a Standard binder? A. No, sir; the Standard mower.

Q. You have no competition on the binders only with the Johnston and Deering? A. Yes, sir.

Q. In your territory? A. Yes, sir; in my territory.

Q. Now, prior to 1903, the price the company made to you included the truck or transport, didn't it? A. Yes, sir.

Q. That is not the case now, is it? A. No, sir; it is not the case now.

Q. What extra price do you pay for the truck? A. \$3.00.

Q. What did you pay for the six-foot binder prior to 1903? A. \$95.00 cash and \$100.00 time.

Q. What do you pay now, cash? A. \$107.50, less seven per cent.

Q. What do you have to pay extra now for your truck? A. \$3.00.

Q. Then the machine that sold complete for \$95.00 cash before 1903 sells now for \$110.50, less seven per cent? A. If we order the tongue truck; if we order the transport with it.

Q. You always got the transport with it before 1903? A. Yes, sir; we got a reduction if we ordered it without the transport.

Q. If you did not take the truck before 1903 you got a reduction from \$95.00? A. Yes, sir.

Q. From the \$95.00 price? A. Yes, sir.

Q. How much reduction did you get? A. If I remember right, the reduction was \$3.00.

Q. Now, when did you quit handling it? A. Well, sir, for this reason, I had a better machine in the McCormick than I did in the Standard; I could sell more of them; my repairs were easier to get, and it was easier to handle one machine and carry repairs in stock for it than for two.

Q. Were there any objections made on the part of the company to your handling the Standard? A. No, sir.

Q. The matter was never mentioned to you by the blockman or any agent of the company? A. I always used that much liberty; no, sir.

Q. Was the matter ever mentioned to you by the blockman or any agent of the company? A. No, sir.

Q. In any shape or form? A. No, sir.

Q. Did you have the Standard mowers on your floor where the block man or agent of the company saw it? A. Yes, sir; I always did.

Q. The Standard is not now sold in your town? A. No, sir.

Q. The company aids you in making sales right along? A. No, sir.

Q. They do not send canvassers around? A. No, sir; they do not.

Q. Did they before 1903? A. They did not, for the simple reason I did my own canvassing.

Q. Did they not offer to send you canvassers? A. I told them I did not want canvassers.

Q. Did they offer to send you any canvassers? A. They told me if I wanted any canvassers to let them know.

Q. You told them you did not want them? A. Yes, sir.

Q. Do you know whether they sent canvassers to Deering agents? A. They sent them, I suppose they wanted them.

Q. They called for them? A. I don't know, I know there was canvassing done; I will not say they sent them.

Q. How many machines did you sell this last season? A. What kind?

Q. McCormick binders? A. Twenty-two.

Q. How many McCormick mowers did you sell? A. Twenty-eight.

Q. How many Johnston binders were sold in your town? A. Only one.

Q. How many Johnston mowers? A. Only three.

Q. You have a pretty complete monopoly in business up there yourself? A. I have had it for several years.

Q. When did you put the Deering out of business in your town?

A. About four years ago.

Q. What machine is the agent you put out of business now handling, if any? A. He is not handling any.

Q. You put him entirely out? A. Yes, sir.

Q. You have no canvassers there for the McCormick? A. No, sir.

Q. Now you say that by reason of getting this machinery and these repairs on commission that you carry a much larger line than you would if you had to buy them outright? A. Yes, sir.

Q. You bought the machines and repairs on commission before 1903, didn't you? A. I always did.

Q. There has been no change in the condition of affairs in that respect? A. Not in that respect, no, sir.

Q. You had no trouble getting all the machines you wanted before 1903? A. No, sir.

Q. Or repairs? A. No, sir.

Q. And of course you have had none since? A. No, I will say I have tried to buy on cash every year but they will not sell them to me, I tried to buy one car load, harvesting machines, they will not sell them to me.

Q. Since 1903? A. I tried to every year.

Q. And they would not sell for cash? A. No, sir.

Q. What reason did they give you? A. They would sell for cash but they would only make a slight difference of only \$2.00 on each machine, and that did not look good enough to me.

Q. They did not refuse to sell them to you outright? A. No, sir.

Q. Did you try to buy the machines outright since 1903? A. I tried it every year for the last ten years.

Q. The reason since 1903 for not buying was because they did not make a sufficient reduction? A. It has been the same every year.

Q. What year was it, you say wagons sold for \$48.00, that now sell for \$70.00? A. I will have to drop back to make it perfectly safe, about six or eight years ago.

Q. Six or eight years ago? A. Yes, sir.

Q. Whose wagons do you handle? A. The Fish Brothers.

Q. That is not made by the International Harvester Company?

A. No, sir.

Q. Who handles the wagon made by the International Company?

A. No one.

Q. You do not know the extent to which they have increased their prices on wagons during the last six years? A. Not exactly, no sir.

Q. Do you know whether they have increased them gradually or by leaps and bounds? A. I think—

Q. I don't want what you think, I want what you know? A. I know they have increased them, yes, sir.

Q. You do not know to what extent or in what manner they have increased them? A. No, sir. I could not say.

Q. Well, now do you remember the price of wagons five years ago? A. Not exactly, no sir.

Q. I believe you stated to Judge Spencer that you determine the retail price for your binders and mowers? A. I do, yes, sir.

Q. And you fix that price according to the fierceness of the competition that you encounter, I judge? A. To meet the condition of the trade.

Q. You are able to undersell the Johnston man in prices are you not? A. I could not say, I never learned what he asked for his machines, I don't know.

Q. Then so far as the price he makes on his machines is concerned that has nothing to do with the matter of you making a reduction on your machines? A. Nothing whatever, no sir.

Q. The fact is, you do not regard him as very much of a competitor of yours? A. I do not.

Q. Now you say that you are free to sell the McCormick machine in any territory you want to? A. Of course, I restrict the bounds of my territory, my contract said Knox City and vicinity, that does not keep me from going around selling the other fellow, because I have always done it.

Q. Have you gone into towns where the McCormick was handled? A. No, not towns, in the territory.

Q. How close to his town? A. I put three mowers this year within three miles of his town.

Q. You do not know whether he made any complaint to the company or not? A. No, sir; I have never heard of it.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What per cent. of commissions do you get on repairs now?

A. Thirty.

Q. What did you use to get? A. Twenty-five.

Q. When was the change? A. I could not tell you.

Q. About how long ago, I do not mean the year? A. I should judge two years.

Q. Two years ago? A. Yes, sir.

Q. Can you tell me before you leave what has been the course of prices in regard to other farm machinery outside of binders in the last six or seven years? A. All have advanced.

Q. Including wagons? A. In a conservative estimate, I would put it on plows from eight to twelve per cent, on discs about \$2.00 to a disc.

Q. What per cent. is that? A. Discs that used to cost \$18.00 we pay \$20.00 for now.

Q. How about other farm machinery? A. It has been the same way all the way through.

Q. From eight to twelve per cent. increase in the last six or seven years, is that about right? A. Yes, sir.

#### RE-CROSS EXAMINATION.

By Hon. Charles G. Revelle:

Q. Those increases have come gradually year by year? A. They have.

(Witness excused.)

W. H. REYNER, of lawful age, being duly sworn, on his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your full name is W. H. Reyner? A. Yes, sir.

Q. You live at LaPlata, Missouri? A. Yes, sir.

Q. How far is LaPlata from here? A. About ninety miles, I think, by rail.



Q. What business are you in? A. The implement business.

Q. How long have you been in it? A. About 22 years.

Q. What harvesting machines do you handle? A. Well, I handle the McCormick principally; also handle the Johnston also handle the Standard mower, made by the Emerson Manufacturing Company; that is, this year I have handled those three.

Q. How long have you had the Johnston contract? A. Just this year.

Q. How long have you had the Standard contract? A. I have handled them off and on for six years.

Q. How long have you had the McCormick contract? A. Over twenty years.

Q. What other machines are sold at LaPlata, harvesting machines? A. I have one competitor, and he sells the Deering and the Champion. I also have sold the Milwaukee; of course, that is an International machine.

Q. How long ago? A. I sold it this year and last year, too.

Q. Who carries the insurance on the harvesting machines and repairs that you carry? A. The International Harvester Company, I reckon; I carry none.

Q. Has that always been the case, I mean prior to the International Company? A. Do you mean during the life of the International Harvester Company, or prior to that?

A. I mean prior to that? A. Prior to that they wanted me to carry insurance.

Q. How do you mean wanted? A. In fact, they put it in the contract, a clause in the contract, the McCormick contract, that the dealer insure the goods or have them insured.

Q. That is prior to 1902 the dealer obligated himself to insure the goods? A. Yes, sir.

Q. And since the International Harvester Company has been organized the company itself has carried its own insurance, and the dealer has not carried any? A. There has been no clause in the contract about it.

Q. Do you know of any loss by fire? A. I had a loss myself last year, 1908?

Q. Who paid for the loss, what was lost? A. Well, repairs; I happened to have no machines on hand; I lost something over \$100.00 of McCormick repairs.

Q. Did you have any insurance on it yourself? A. No, sir; only covered by the policy I had on the whole stock.

Q. Who paid for them, the insurance company or the International Harvester Company? A. The McCormick people gave me credit for them; it didn't cost me a cent for repairs.

Q. The insurance company did not pay for them, but you got credit for them with the International Harvester Company? A. The International Company gave me credit for lost repairs.

Q. How about the commission you are allowed on the repairs you handle and sell, what per cent. are you allowed? A. Thirty per cent.

Q. Has it always been so? A. No, sir.

Q. What did it use to be? A. Twenty-five per cent.



Q. When was it changed? A. I think about two years ago.

Q. What is the conduct of the company now in regard to the experts and canvassers in your territory setting up machines and making repairs? A. Well, prior to the International Harvester Company when I handled the McCormick goods they would come and set up the first machine for us, send an expert and set up the first one for us, and after that we set up our own.

Q. How is it now? A. Since the International came into existence they not only set up the first one, but they set up all of them, in fact, we helped them around as far as we know, but they send men competent to set them up whenever we call for them, they have done it this year and every year since I have handled the machines.

Q. Suppose you set them up and do not call for them? A. They pay us \$2.00.

Q. On each machine? A. On each binder; this pertains to binders, the mowers we are supposed to take care of ourselves.

Q. All you have said pertains to binders alone? A. Yes, sir.

Q. What effect does it have on the stock of goods that you carry that you get them on commission and do not pay for them outright? A. If I had to buy them outright I would not carry half the stock.

Q. What is the practice in your locality in regard to other farm machinery other than harvesting machines? A. We have to buy it all outright.

Q. Have you been solicited by any other companies to act as their agent? A. Yes, sir.

Q. When? A. Many a time, I could have had almost any agency I wanted, that is at times I could.

Q. I mean of what companies? A. I have been solicited for the Osborne when these companies were separate; I could have had the Osborne and Milwaukee agency, together with the McCormick; I could have had them all at once if I wanted them.

Q. How about the last five or six years? A. Well, that same thing has existed; I could have had their agencies; in fact, I took some of them.

Q. For example? A. I took the Johnston.

Q. You took the Johnston? A. I have the Johnston now; I have it this year, I have the contract and have sold, I only sold one mower, that is all I bought, one mower, and sold it. The Standard mowers I have sold, as I stated, off and on for five or six years. I sold eight Standard mowers this year.

Q. Can you tell why you do not take them on commission, why you don't sell those other machines? A. I have the best trade in the McCormick machine; in fact, I have sold it so long and people like it so well, it is hardly worth while changing to other machines.

Q. Has there been any increase in the price of harvester machines manufactured by the International Harvester Company between 1902 up until last season? A. No change that I know of.

Q. What was the change last season? A. In 1908 there was a change, they advanced the price.

Q. What is the price now on a six-foot binder, corn or grain? A. \$110.50 on grain binders without the transport.

Q. Leave out the transport; has the transport anything to do with the operation of the machine, is it part of the machine itself? A. No, it is only used to carry it from field to field.

Q. To facilitate the carriage from field to field? A. I always buy it that way because my customers always want the transport; I never sold a machine without the transport.

Q. As a matter of fact, if the farm is level, the communication between the fields is easy, the transport is not necessary? A. I don't think it is; I suppose they could use it without.

Q. It is not a part of the machine itself? A. No, sir.

Q. Take the harvesting machine itself, what is the price now? A. \$107.50.

Q. With anything off for settlement? A. Seven per cent. off at settling time.

Q. What was it before 1908? A. \$100.00 with the truck, including the transport with five off.

Q. Leaving out the truck as you got the machine alone the price before 1908 was always \$100.00, less five per cent., or \$95.00, and since 1908, excluding the truck, the price was \$107.50, less seven? A. Yes, sir.

Q. Before 1908 the truck was included in the price? A. Yes, sir.

Q. Since 1908 the truck has not been included in the price, that is the exact fact? A. Yes, sir.

Q. What has been the course of prices of other farm machinery outside of harvesting machines in the last six years or seven years? A. They have gradually advanced.

Q. Eliminating wagons, I will take them up alone? A. Yes, sir; they went faster.

Q. What has been the advance in disc harrows and other farm machinery? A. From eight to ten per cent., eight to twelve, about from eight to twelve per cent.

Q. How has it been in regard to wagons? A. Wagons have advanced at least twenty-five per cent.

Q. Has it been a gradual increase of by leaps, using their expressions, and bounds? A. The last six or eight years when I come to buy wagons they have climbed a little higher, they would ask a dollar or two dollars more each year for the past six or eight years until now they are at least twenty-five per cent. higher than seven or eight years ago.

Q. What is the state of competition in harvesting machines so far as the farmer is concerned, in your locality now? What is the actual competition in your locality in regard to the sale of harvesting machines to the farmer, that is the only man you sell to? A. Yes, sir; all we sell to.

Q. What is the actual state of the competition? A. The competition with me is about the same as it always was. I have a competitor that is a credit to any man. He knows his business and sells goods, sells the Deering and Champion and he is wide-awake and sells some goods, keeps me busy.

Q. Who fixes the retail price at which you sell? A. I fix it myself.

Q. Does it vary with circumstances or do you fix it definitely for everybody? A. I generally have the same price to everybody; I never could do business successfully any other way.

Q. What twines do you handle? A. I have had two or three kinds; this year principally the International twine; I have had some Plymouth twine this year, a small amount of Plymouth twine.

Q. You have handled twine the last seven or eight years? A. Yes, for fifteen years.

Q. What has been the course of the price of twine, any advance? A. It has gradually declined in price for several years.

Q. Let us compare 1902 to the present time, the last six years, if you can? A. In 1902 it was about 13 cents, as near as I can recollect; about 13 cents a pound.

Q. What is it now? A. I was thinking about the retail price; I suppose we bought it for about 11½ cents, now we buy it for 7½.

Q. What was corn worth per bushel in 1902? A. Well, about 30 cents or 35.

Q. What is it worth now? A. It is worth double that.

Q. 70 cents? A. Yes, sir; in my locality.

Q. A bushel of corn will now buy ten pounds of twine?

Hon. Theo. Brace, Commissioner:

That is a matter of calculation.

Hon. Selden P. Spencer, counsel for Informant:

Q. In per cent., you may state about what?

Hon. E. W. Major, counsel for Informant:

Objects to the question as immaterial.

Hon. Theo. Brace, Commissioner:

Objection is sustained on the ground that it is a matter of general knowledge.

Q. In your locality, is there any difficulty in a farmer getting a Johnson, Wood or an Acme, or any other machine, if he wants it? A. No, sir; I do not think there is.

Q. How about yourself, you are in the business? A. If there is not an agency, a general agent in his town, I can get him what he wants.

Q. How about yourself? A. I try to get whatever he wants; if the other man has not got it already, I get it for him.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. You stated a while ago there was a decline in binder twine; when did the decline begin? A. Well, I think about 1891 or 1892, I remember.

Q. 1901 or 1902, you mean? A. Yes, sir; 1901 or 1902, I think it was higher then than it is now.

Q. Don't you know, as a matter of fact, twine did not decline in Missouri until Missouri built her own factory at the penitentiary and

went in competition, and then it did decline? A. No, sir; I don't know it is a fact.

Q. You know the year it did decline, Missouri was selling it from her penitentiary? A. I expect it is the case. I never bought any of the Missouri penitentiary twine; in fact, I don't know much about it.

Q. You can buy twine at the Missouri penitentiary as cheaply as you can buy it from the International people, can't you? A. I suppose I can, the quality might have something to do with it all.

Q. Have you seen the Missouri penitentiary twine? A. Not this year, I have not seen any this year.

Q. Did you see any last year? A. I think so.

Q. Do you say it was inferior to the International twine? A. I never considered it as good.

Q. Why? A. Because it was not as smooth.

Q. Don't you know they make the smoothest twine in the market? A. To my notion I don't think it is as smooth, I don't think it runs as even, those are qualities that are necessary to good twine.

Q. When you say smooth what do you mean? A. I mean no thick and thin places in it, uniform size.

Q. If you have seen the Missouri twine don't you know it is the smoothest running twine there is in the market? A. No, not this year.

Q. Any year in the last five years? A. As a matter of experience I never saw any penitentiary twine that I thought was as good as the International twine of today, and the Plymouth twine, I never saw any penitentiary twine made any place that I ever examined that compared with the Plymouth twine.

Q. Where do you get the Plymouth twine? A. It is made by the Plymouth Cordage Company, made down in old Massachusetts.

Q. Who is it sold by? A. They have agents in large cities, St. Louis and Kansas City.

Q. Not sold by the International people? A. No, they don't sell it.

Q. It is the best twine made? A. Yes, sir; I think the best twine made.

Q. It sells the same price as the International? A. Yes, sir.

Q. Why don't you handle the best? A. I handled it in connection with other twine. The people don't know any difference, they can't tell it, it takes an expert to tell the difference. I can answer the question why I don't handle the best.

Q. All right? A. I can get the International twine in the car and save the freight, I would have to pay the freight on the other from St. Louis, it is a question of freight, that means cost.

Q. Now you spoke a while ago about repairs; you could get repairs prior to the formation of the International Harvester Company of America on the same terms that you get them now, couldn't you, you handled them on commission? A. Yes, sir.

Q. You handle them on commission now? A. Yes, sir.

Q. You had no trouble getting repairs prior to 1903? A. No, sir.

Q. And have none now? A. No, sir.

Q. You had machines on commission prior to 1903? A. Yes, sir.

Q. And have them on commission now? A. Yes, sir.

Q. So on those terms there is no change in the condition? A. Apparently no change in the condition.

Q. Before 1903 the sales of the machines in your community was between the different independent companies? A. Yes, sir.

Q. Now there is no competition between these machines, that were competing then that are owned by the same company? A. Yes, sir.

Q. The only competition you have is between agents acting for the same company? A. Yes, sir; the dealers that is the competition.

Q. Whose implements did you handle during the last ten, twelve or fifteen years? A. You mean farm implements aside from harvesters?

Q. Yes, aside from the harvester stuff? A. I have handled the J. I. Case goods, the whole line of Case goods, the J. I. Case riding and walking plows, and also handled the Emerson goods in riding plows.

Q. After 1903 what implements, farm implements, have you handled, what make? A. Since 1903?

Q. Yes, 1903? A. Well I have handled the Case goods since 1903, I handle them now, I handle the Emerson goods, some of Pollen's goods made at Quincy and the International goods, I sell some of the harrows now.

Q. The prices in farm machinery of the independent companies and also including the International Company's goods, have all gradually increased year after year, haven't they, of farm machinery, outside of binders? A. Yes, other machinery.

Q. The International increased the price on their machines just as other companies increased the price on farm machines? A. You mean other goods outside of binders?

Q. Yes? A. The principal thing I handle is harrows.

Q. The price has increased on those? A. It is no higher this year than it was last, I don't know whether they have increased it or not, I have not had it very long.

Q. You said a while ago that the price of farm machinery outside of binders had increased eight to twelve per cent? A. Yes, sir; it had.

Q. The farm machinery that increased eight to twelve per cent included the farm machinery made by the International people, did it not? A. Yes, I think it did. Let me say this: the International harrows, I have only handled them the last two years, and the increase was already on them.

Q. Before you got them? A. Yes, sir; when I got them whatever increase on harrows was there when I bought them, they have not increased them in the last two years since I began to buy them.

Q. There is a stronger competition in harrows, they are made by more independent companies perhaps than any other farm machinery? A. There is.

Q. Isn't that the fact? A. No, I don't know whether it is or not, they all have harrows to sell.

Q. There are a great many harrows? A. Yes, sir.

Q. There are a great number of independent companies manufacturing and selling harrows? A. Yes, sir.

Q. Five to ten times as many people selling harrows as are engaged in selling binders outside of those sold by the International people? A. Yes, sir; every plow-maker makes harrows.

Q. Now prior to 1903, or prior to the organization of the International Harvester Company, the price on six-foot machines—I believe you said you sold the McCormick? A. Yes, sir.

Q. Six-foot McCormick machines including the truck was \$100? A. Yes, sir.

Q. Now if it did not have a truck with it you got how much off? A. \$3.00 off I think.

Q. In other words, prior to 1902 you stated the six-foot binder priced to you was \$100.00 including the truck and \$97.00 without the truck? A. I think that is correct.

Q. Now immediately after 1903 this machine, the same six-foot machine, was given to you for \$100.00 but the truck was not included, was it, after the International people got it? A. Yes, sir; the truck has been included in the \$100.00 price up until two years ago.

Q. Two years ago, 1908, the machine and truck which you originally purchased prior to the organization of the International Harvester Company for \$100.00 cost you \$110.50, did it not? A. Yes, sir; truck and all.

Q. You could have bought the truck and all for \$100.00 prior to the time they organized? A. Yes, sir.

Q. And this increase in harvesting machines did not come gradually like the price of other machines, but came at one leap? A. Yes, sir; that rise all came at once.

Q. Now, the different machines sold by the International people you know as a matter of fact comprise all of what is termed Standard make Binding Machines? A. Yes, sir; about six of them.

Q. And the sale of those machines would include at least 85 per cent of the sale of binding machines in the country, would it not? A. I suppose it would, I am not posted as to what per cent.

Q. In your community? A. In my community the sales would be practically all.

Q. It would be practically 100 per cent? A. Practically 100 per cent of the International goods.

Q. In your community you can say that as a rule there is no competition against the International Harvester's goods? A. Not very much, not in my town.

Q. Although you represent the Johnston machine you have made no special effort to sell the Johnston binder? A. I never had it until this year.

Q. You have made no special effort to sell it this year? A. No, sir.

Q. You never sold any? A. I sold a mower is all.

Q. And if the International Harvester Company, instead of increasing the price \$10.50 had the price been increased \$25.00 so far as the farmer is concerned there would have been no other men from whom



he could have bought a Standard machine? A. I don't know what effect that would have had.

Q. Was there any market to which they could have gone to satisfy their wants in Standard machines? A. No, sir; I don't think there is, I don't think the farmer could be supplied, he would have no way to cut his grain or grass if the International people would shut up shop and quit making them, I don't know where he could get them.

Q. If they should shut up shop there would be no place to get them? A. No, sir.

Q. Whatever price they would fix on the machine, there is no other place to buy machines other than from them? A. No, sir; it seems like that.

Q. You say last year the Harvester Company paid you, allowed you credit for the commission goods you had on hand? A. During the fire?

Q. Yes, after the fire, that were lost in the fire? A. They credited the account, of course they had me charged up with them.

Q. You had the goods on commission? A. Yes, sir.

Q. And when the fire occurred as a matter of law it was their loss, and not yours, wasn't that true?

Hon. W. M. Williams, Counsel for Respondent:

I object to the question, that is a matter of law.

Hon. Theo. Brace, Commissioner:

Objections sustained.

Q. They never had done that prior to the institution of this suit?

A. I will tell you what did happen, I had six Standard mowers lost in a fire, and had them to pay for.

Q. You bought them outright. They were not commission goods?

A. Yes, sir; I wished a dozen times they were McCormick goods.

Q. You bought one and sold it and the other one was on commission, the International people had never done that prior to the institution of this suit? A. Done which?

Q. Paid for the insurance? A. No, sir; they would not pay for it until the fire happened, that was last year.

Q. When you settled with the insurance company did they deduct anything from the amount of your insurance for the amount of your insurance for the loss of these repairs of the International people? A. No, sir; I didn't have enough insurance.

Q. You got full value on your insurance policy? A. Yes, sir; every dollar.

Q. The International people came in and allowed you credit too?

A. Yes, sir; they lost the repairs.

Q. Now when a machine is sold to a farmer without the transport how much reduction is made in the price? A. Well sir, I suppose \$3.00, but I never sell them that way, never did sell one, I always sell a transport, they always want them and rather——

Q. You say you sell your binding machine at a uniform price? A. Yes, sir; as near as I can at the same price.

Q. You have competition in your neighborhood? A. Yes, sir.

Q. The competition is not sharp enough to make you cut the



price? A. Well my competitor likes to make some profit and we don't do a great deal of cutting.

Q. Your competitor does not cut and you don't cut? A. No, we try to make a living out of it, we try to make the merits of the machine sell it.

RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Do you remember when the Missouri penitentiary started to make twine? A. No, sir; I don't believe I do.

(Witness excused).

W. W. MORGAN, of lawful age being duly sworn on his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is W. W. Morgan? A. Yes, sir.

Q. You live at Shelbina? A. Yes, sir.

Q. In Shelby county? A. Yes, sir.

Q. How far is Shelbina from here? A. Forty-seven miles.

Q. What machine do you handle? A. The Deering.

Q. How long have you handled the Deering? A. Well, about ten years, I should judge.

Q. Do you handle your harvesting machines on commission agency contracts? A. I do.

Q. Do you handle your repairs the same way? A. Yes, sir.

Q. What difference does that make in the stock you carry? A. It makes quite a difference, I carry good big stock of repairs, I carry a larger stock this season than ever before.

Q. Can you give an idea of how much difference it makes? A. I carry this season probably \$250.00 worth, or more. If I had bought them straight out, I don't suppose I would carry over \$75.00.

Q. How about repairs? A. That was repairs.

Q. How about harvesting machines? A. It would be about the same way.

Q. You get all your repairs now on the commission agency plan, don't you? A. Yes, sir.

Q. Was that the rule with the Deering before the International Harvester Company was formed? A. Yes, sir; since I have been with them.

Q. How long have you been with them? A. I say about ten years.

Q. Now before 1902 or 1903 did you have to pay for repairs as you got them from the Deering? A. No, sir.

Q. Do you make wagons? A. Yes, sir.

Q. How long have you been making wagons? A. Fifty-two years.

Q. You make them yourself? A. Yes, sir.

Q. What has been the course of prices? A. I am not 52 years old myself.

Q. Can you explain how you made them? A. I mean the business was established 52 years ago by my father.

Q. The manufacture of wagons is 52 years old? A. Yes, sir; I make the same grade of wagons.

Q. How does the price of wagons compare with what it was about six or seven years ago? A. About six or seven years ago it was probably \$55.00.

Q. What is it now? A. \$67.50.

Q. How about the price of other farm machinery outside of the harvesting line in the last six or seven years, what has been the course of prices? A. There has been some advance.

Q. Can you give me some idea in per cent? A. Well possibly ten per cent.

Q. Do you handle any other machines except the McCormick? A. The Deering.

Q. Except the Deering I mean? A. No, sir.

Q. What other machines, have you handled, any others? A. Yes, sir; I handled the Champion 23 years and I handled the Standard for a while.

Q. Why did you stop the Champion, do you remember? A. With their mode of doing business we had to pay for everything with those people.

Q. You had to pay for everything you got? A. Yes, sir.

Q. The commission agency contract was not in force with them? A. No, we have \$250.00 worth of repairs that we invoice every year for \$3.00 and we hate to put them in the junk pile for \$3.00.

Q. That you bought from the Champion? A. Yes, sir; twenty years ago.

Q. You had to pay for them when you bought them? A. Yes, sir.

Q. And have had to carry them ever since? A. Yes, sir.

Q. How about the exclusive agency clause in the contract with the Champion people before 1902? A. Well they were iron clad on that.

Q. What do you mean by that? A. I remember years ago when they took it away from the party they had quite a stock on hand, they took the agency away.

Q. What do you mean? A. They claimed they were cutting prices.

Q. Is there any exclusive agency clause contract now? A. No, sir.

Q. You handle any goods you like? A. Yes, sir; any that we like.

Q. You did handle the Standard, you say? A. Yes, sir; I sold one about three years ago. A party came down from the northern part of the county, he thought I still handled the Standard, he didn't want anything else but the Standard and I tried to sell him.

Q. What were you handling then? A. The Deering. I tried my best to sell him a Deering, he said, "No, I would not have a McCormick. Can't you get me a Standard;" I said, "If there is no other way out of it I will get it for you." He said, "What will you get it for?" I said, "I have not seen one for a number of years, I don't know that I

would know it if I saw it in the road. I will get it for \$5.00 profit." He says, "You get it for me."

Q. When was that? A. Three years ago. I never kept it quiet from my block man or anybody else. I told everybody.

Q. Did they know about it? A. Yes, sir; I told them about it.

Q. What other machines are handled in your territory besides the machines of the International Harvester Company? A. The Johnston.

Q. Mr. Morgan what has been the course of prices of twine in the last six or eight years in your locality? A. Well, twine has been coming down.

Q. Can you tell us about what proportion? A. I used to sell twine the same twine that I sell now for the International, I used to get 18 cents for from the farmers, when the farmers got 16 cents for oats, and year before last I retailed it at 11 cents, this last season at 10 cents, and this year at 9 cents and oats opened up at about 52 cents and came down to 48 cents and this season I sold twine at 9 cents, a hundred per cent reduction on what I had sold it.

Q. Six or seven years ago? A. Yes, sir.

Q. What per cent commission do you get on the repairs you sell?

A. Thirty-three and a third I believe, I think it is.

Q. Has it always been so? A. No, sir.

Q. What did you used to get? A. Twenty-five.

Q. How long ago was the change? A. Three or four years I think.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. You stated that the tendency in the price of binder twine has been lower during the past seven years, prices have been decreased?

A. Yes, sir.

Q. That has been the condition although prices in practically everything else have been going up. You know as a matter of fact that in the manufacture of binder twine there are a large number of competitors, do you not? A. Yes, sir.

Q. Binder twine is now manufactured very freely by different states in their state institutions? A. Yes, sir.

Q. And the competition is very fierce on the sale of binder twine, is it not? A. Yes, sir.

Q. You say the Johnston machine is handled in your place? A. Yes, sir.

Q. How many Deering machines did you sell last year? A. Well, I sold a car load of mowers and binders.

Q. How many in numbers does that represent? A. I think eight binders, I don't remember just how many mowers.

Q. Is the McCormick handled in your town? A. Yes, sir.

Q. Do you know how many of these were sold? A. I think a car load was shipped in, I don't know whether there were any after that.

Q. Is the Osborne handled there? A. No, sir.

Q. The Plano? A. No, sir.

Q. Is the Milwaukee? A. No, sir.

Q. The Champion? A. I am not sure about that, it has been, if it is handled by the man who handles the Johnston.

Q. How many Johnston binders were sold there last year? A. I don't know whether any were sold there was an agency there.

Q. How many of their mowers were sold? A. I couldn't say.

Q. The truth of the matter is the competition you encounter in the sale of your machine is with the McCormick machine, is it not? A. Yes, sir; practically.

Q. The machine sold by the International Harvester Company of America, that company has practically all the business in your community? A. Practically, yes, sir.

Q. You do not regard the Johnston machine as anything like a dangerous competitor of yours, do you? A. Well, perhaps I would if some other dealer had it, it is a well known machine.

Q. If the International Harvester Company had not already gotten the choicest agents in town, is that what you mean? A. No, sir; I do not exactly mean it that way, I would hate to say it.

Q. Perhaps that is a little bit embarrassing, outside of yourself then? Now you stated about some repairs of the Champion machine that you had to pay for them and still have them on hand, how long ago was that? A. Twenty years.

Q. After that time and before the formation of the International Harvester Company, the Champion people sold their machine and repairs also on commission, didn't they? A. Not as long as we stayed with them.

Q. I understand that, but prior to that time, prior to 1903, didn't they do it? A. Yes, sir.

Q. And in fact all manufacturers of machines did that? A. Yes, sir.

Q. There has been no change in that regard since 1903? A. No, sir.

Q. You stated that the price on other farm implements, I believe, had increased considerably, that increase has come gradually, has it not? A. Yes, sir.

Q. Year by year? A. Yes, sir.

Q. Do you handle any of the farm implements manufactured by the International Harvester Company, excepting binders and mowers? A. Yes, I handle some of their harrows, disc harrows and peg tooth harrows.

Q. What has been the increase in the price of harrows during the last three or four years? A. I don't know I never handled any of their harrows except the last two or three years, I don't think there has been any advance since I handled that make.

Q. Do you know whether there has been an advance made by other companies that manufacture harrows during that time? A. I think there has been, of course, I have been quoted prices, that is only perhaps because I have bought International instead of something else.

Q. The International Harvester Company encounters consider-

able competition in the sale of its harrows in your community, does it not? A. Yes, sir.

Q. You know as a manufacturer of wagons and from your general knowledge of the farm implement business that the prices of material that goes into harrows has increased as much, that is, the price of raw material, has increased as much as it has on material that goes into binders and mowers and wagons during the last two or three years? A. I don't know that, I have always heard some way or other, I don't know just how, I have heard it along in my line of business by all different manufacturers that harrows are something they don't make much money on, less profit on harrows than anything else they handle, I don't know whether it is or not.

Q. My question is whether the price on the raw material that goes into the manufacture of harrows has not increased as much in the last three or four years, as on the raw material that goes into binders and mowers? A. No, sir; I don't think so.

Q. What is a harrow made of? A. The reason I said it, is that iron and steel have not advanced like wood that goes into the harrow.

Q. How about binders and mowers? A. Of course, I am not posted, I don't know how to answer that, I don't know of anything that has not advanced in the last two or three years, labor and everything else.

Q. There is quite a large quantity of steel and iron that goes into the making of harrows? A. Yes, sir.

Q. A great deal of steel and iron goes into the making of binders and mowers? A. Yes, sir.

Q. Now the price on steel and iron has increased just the same on the two implements, has it not? A. I could not answer that question intelligently.

Q. Is the wagon manufactured by the International Harvester Company sold in your community? A. I think so.

Q. Do you know the prices they charge their dealers for wagons? A. No, sir; I do not, I would not like to state positively.

Q. Do you know whether or not they have made any material increase in the price of their wagons in the last two or three years to dealers? A. Only just from rumor.

Q. Do you not know of your own knowledge? A. No, sir.

Q. You stated something about the agency of some person having been taken from him, because he cut prices, when was that? A. That has been many years ago, about 25 years.

Q. Twenty-five years ago? A. Yes, sir; I remember the time very well, and the firm, Broughton & Meyers.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Do you happen to know what per cent of the twine sold in Missouri comes from the state penitentiary? A. No, sir; I don't know.

Q. Do you know how much they manufacture? A. No, sir; we never buy any in our community.

By Hon. Charles G. Revelle:

Q. You know as a matter of fact the Missouri penitentiary has not been able to sell any of her twine for the last several years? A. I don't know of any in the community.

Q. Or any other place? A. I do not.

(Witness excused.)

H. A. KELLOGG, of lawful age being duly sworn upon his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is H. A. Kellogg? A. Yes, sir.

Q. Your home is in Kirksville? A. Yes, sir.

Q. Adair county? A. Yes, sir.

Q. How far is Kirksville from here? A. I judge it is about 70 miles.

Q. What harvesting goods do you handle? A. The International.

Q. What general line of business are you in? A. Seeds, grain and live stock.

Q. How long have you handled harvesting goods? A. 25 years.

Q. Are any other harvesters except the International Harvesters sold in your town, in your locality, in your territory? A. Yes, sir.

Q. Your vicinity? A. Yes, sir.

Q. What? A. The Johnston.

Q. What other harvesters of the International are sold there? A. The Deering and Champion.

Q. Did you ever handle the Champion? A. No, sir.

Q. Did you ever handle anything except the McCormick? A. Yes, sir.

Q. What others? A. I handled years ago the Walter A. Wood.

Q. How long ago? A. It has been twenty years ago.

Q. Did you succeed the Walter A. Wood with the McCormick or handle them together? A. I handled them together.

Q. What is the course of trade in your locality Mr. Kellogg as regards a man, a farmer, who wants today the Walter A. Wood, the Acme or Johnston, or any other machine? A. He gets it.

Q. How? A. The Walter A. Wood, I suppose he could get it from me, if they have not any agent there, by my applying to the Walter A. Wood people for it, or any other machine, excepting of course where they have a representative there such as the Johnston.

Q. He would get it from that man? A. Yes, sir.

Q. In other words any man that wants any machine can get it from you if there is no other agent in town for that machine? A. Yes, sir; I suppose so, I take it for granted.

Q. As far as you were concerned you would handle it? A. Yes, sir.

Q. Do you know anything about the practice in regard to insur-



ance on goods, who carries the insurance on harvesting goods and repairs now? A. Yes, sir.

Q. Who does? A. The International people.

Q. Has that always been so, how was it before the International was formed? A. Before the International, now this I give from memory, they required you before this merger to carry your own insurance.

Q. Did you have any experience yourself? A. Yes, sir; I had a fire.

Q. When? A. That has been quite a number of years ago, twelve years ago.

Q. What was the result of the experience? A. The result was I paid for repairs that I had on hand.

Q. The loss was yours? A. Yes, sir.

Q. But since the International Harvester Company was formed your testimony is that the insurance on goods is carried by the International Harvester Company, of America? A. Yes, sir.

Q. What is the course of competition in your locality on harvesting machines? A. The course is if the farmer comes to me and I will talk to him the best I can, he goes to some other man, to the Deering people, goes backwards and forwards, and the man who can talk the best, he sells him the goods.

Q. Are you bound to any fixed price that you can sell to the farmer? A. No, I can give him a machine if I like.

Q. How does that competition vary, has there been any change in the last ten years? A. No, not a great deal.

Q. You handle all your goods, harvester machinery and repairs on the commission agency contract, do you not Mr. Kellogg? A. Not all of the repairs, no, sir; there is a certain line of repairs we buy outright.

Q. What are they? A. Such as sections and knives and some others, knives and some others, a few repairs of that kind.

Q. Do you buy them outright now? A. Yes, sir.

Q. You buy your harvesting machines on commission agency contracts and handle them on commission agency contracts? A. Yes, sir.

Q. What is the effect of that as to the amount of stock you keep on hand? A. In other words, if I bought outright?

Q. Yes? A. I would not carry but about fifty per cent of what I do.

Q. What has been the course of prices of farm machinery other than harvesting machines, excluding wagons, in the last six or seven years? A. I cannot say, I have not been handling them.

Q. You cannot tell? A. No, sir.

Q. Do you know anything about wagons? A. No, sir.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. You said you lived at what place? A. Kirksville.

Q. You said you supposed that anybody who applied for a ma-



chine of any make now could get it, you do not know as a matter of fact, do you? A. I have not had occasion to try it.

Q. No one has applied to you? A. No one has applied to me for any machine but what I handle.

Q. Consequently you do not know what the result would be? A. No, sir; I would not know.

Q. That is a mere supposition of yours? A. I judge from what has happened before.

Q. Now, then, what machines are sold at your place, let me get that? A. The Champion.

Q. The Champion machine, the second? A. The McCormick.

Q. The third? A. The Deering.

Q. The fourth? A. The Johnston.

Q. Any others? A. The Minneapolis.

Q. Now then there are five machines sold in your community and out of the five machines sold, four of them are owned and sold exclusively by the International Harvester Company, that is true? A. I think it is.

Q. The Johnston is the only one sold in that community which the International Harvester Company do not own? A. That is the only machine that has any representation there outside.

Q. Now what per cent of the machines do the International Harvester Company of America sell in your community? A. Of course, that is guess work in regard to me, but I would judge 75 per cent.

Q. Now, you say the competition now is about the same as it was some years ago? A. Yes, sir.

Q. The competition that existed prior to the formation of the International Harvester Company was a competition between five or six independent companies selling machines, was it not? A. Well, if they were represented all in that town, yes, sir, if they had an agency.

Q. But the only competition outside of the Johnston that has an agency that takes place now is the competition among the agencies only? A. Outside of the Johnston?

Q. Yes, sir? A. Yes, sir; as far as I know.

Q. You represent the McCormick and your competitor the Deering, no matter how sharp the competition is between you, the International Harvester Company does not cut a cent, does it? A. No, sir.

Q. They give to both of you an unyielding price, don't they? A. They give me an unyielding price for the McCormick and, if they do the same for the Deering—

Q. No matter what price you sell at the company gets their money? A. Yes, sir; if I give a machine away.

Q. Did you handle the McCormick prior to the formation of the International Harvester Company? A. Yes, sir.

Q. At that time you could get a six-foot binder including the transport or truck for \$100, couldn't you? A. Yes, sir; I think that was the price.

Q. Now the same machine, with the same truck, the International

Harvester Company now charges \$110.50 does it not? A. Yes, sir; that is the price.

Q. That increase did not come gradually during the years since it has been formed, but came in one year, the season of 1908? A. The season of 1908, yes, sir.

Q. Now during the same period of time the rise in price on other farm machinery outside of binders came gradually, didn't it? A. I don't know, I don't handle them.

Q. You handle no farm machinery outside of binders? A. No, sir, none.

Q. You spoke a moment ago about the Walter A. Wood machine, I suppose you know the fact that the International Harvester Company got that machine, don't you? A. I don't know.

Hon. Selden P. Spencer, Counsel for Respondent:

It is not a fact, they got the Osborne but not that.

Q. Well the Walter A. Wood is not selling any machines in the market in your county at all now? A. No, sir; not as I know of.

Q. As a matter of fact they went into the hands of a receiver or don't you know? A. I don't know, it was rumored and the papers said as much.

Q. At any rate they quit selling machines in your county? A. Yes, sir.

Q. And you have not sold any in the last ten years? A. I think not.

Q. Now you spoke about repairs prior to the formation of the International Harvester Company that you could carry all the machines and repairs on commission that you wished? A. Yes, sir.

Q. So there has been no change in that whatever has there? A. No, sir.

Q. Now you said that the International Harvester Company carried the insurance, paid for the insurance on the property left with you for sale; property left with you for sale, left to be sold on commission, it is left on consignment? A. Yes, sir.

Q. They are simply insuring their own property? A. Yes, sir.

Q. Now then, prior to the formation of the International Harvester Company in 1902, the only machines sold in your community were the Champion, McCormick, Deering, Minneapolis, Osborne and Plano; what per cent of the machines sold in that community were sold by those six companies, all of it was it not? A. I suppose so, yes sir; there might have been some other machines sold besides that occasionally, such as the Standard.

Q. There is no Standard binder? A. No, sir.

Q. I am speaking of binders alone, they sold prior to the formation of the International Harvester Company those companies sold all the harvesting machines sold in the community? A. Yes, sir; I think likely. I wish to correct in saying that the machine that is sold there, instead of Minneapolis it was the Milwaukee.

Hon. E. W. Major, Counsel for Informant:

Well it is the same, the Milwaukee and the Minneapolis are the same.

Hon. Selden P. Spencer, Counsel for Respondent:

They are different machines, the Minneapolis is the Minnie.

Hon. E. W. Major, Counsel for Informant:

The Minneapolis is not being sold now, the Milwaukee took its place, the Minneapolis is not in the market. The Minneapolis was in the market prior to the formation of the International Harvester Company, but since the formation of the International Harvester Company, there has been no Minneapolis sold.

RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. See if I understand you right about repairs. When you buy repairs today you buy them ——— you said you bought them on the commission agency plan except knives and sections and those you buy outright, is that right? A. Yes, sir.

Q. Haven't you the option of buying them either on commission or outright, as you like? A. Yes, sir.

Q. In other words, you can have today all the repairs on a commission agency if you prefer? A. Yes, sir.

Q. Or you can buy them outright if you desire? A. Yes, sir.  
(Witness excused).

JOHN P. TIPPETT, of lawful age being duly sworn on his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is John P. Tippet? A. Yes, sir.

Q. You live in Keytesville, Chariton county? A. Yes, sir.

Q. How far is Keytesville from here? A. About 100 miles.

Q. What business are you in? A. I am in the implement business.

Q. How long have you been in the implement business? A. I have been in the implement business about 35 or 40 years.

Q. What harvesting machines do you handle? A. I handle the McCormick.

Q. How long have you handled it? A. 39 years.

Q. What other harvesting machines are handled in your locality? A. Well, in our town you say?

Q. In your locality? A. Well, the Champion and the Deering, and the Johnston is handled at a little town four miles from me.

Q. Is the Acme handled in your locality at all? A. No, sir.

Q. How far is Salisbury from your place? A. Eight miles, it is handled over there.

Q. Do you handle wagons? A. Yes, sir.

Q. What brand do you handle? A. Louisville, Kentucky.

Q. Have you handled International wagons? A. I have handled some lately, I never handled any before.

Q. What has been the price of wagons in the last eight or nine

years? A. Well wagons have varied, I have bought them at \$48.00 a piece.

Q. In the last eight or nine years? A. Yes, sir; now I am paying as high as \$70.00.

Q. What has been the course of prices of farm products in the last eight or ten years? A. It has increased very rapidly.

Q. Could you give me any idea in per cent? A. No, I cannot, I have bought corn there for the last ten years bought it as low down as 25 cents, and now it is as high as 60.

Q. Is that a fair sample of other farm products? A. Yes, sir.

Q. Did any other company solicit you to be their agent? A. Yes, sir.

Q. What other company? A. The Acme and Johnston.

Q. When? A. In the last two or three years.

Q. Why didn't you take it? A. Because I was well satisfied with those goods I handled, they gave entire satisfaction.

Q. Satisfaction to whom? A. To the customers.

Q. What has been the general treatment by the International Company to the farmers in your locality?

Hon. Charles G. Revelle, Counsel for Informant:

Objects to the question, that is a matter of conclusion of the witness.

Hon. Theo. Brace, Commissioner:

Objection is sustained.

Q. What happened in your locality last year at the time of the flood in connection with the harvesting machines, anything? A. I had sold several harvesting machines last year, they had a flood and my customers came to me and told me they could not possibly meet their obligations, and if anything could be done they would appreciate it, even by paying interest. I told them I had no authority to make a change in the notes, and would write on to headquarters to see what could be done, I did so and they told me to take up the notes, and take new notes at twelve months without interest, which was a great deal better than I expected, or the customers, either.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. When was it the company did it for you, last year? A. Yes, sir.

Q. That is since the institution of this suit. The company never did anything of that kind for you before 1908, did they? A. Yes, sir; they have done it several times.

Q. When did they do it before 1908 for you? A. The year of the overflow.

Q. When? A. This year and year before last.

Q. Before this two years, except this year and last year, they never did that? A. No, they never did that until the last two or three years.

Q. In 1902 and 1903 will you state about what proportionate

part of the business done in your community, the county, if you know was done by the company that makes the Deering, McCormick, Plano, Champion, Milwaukee and Osborne machines? A. I suppose it would be 50 per cent done by the company.

Q. 50 per cent by all companies together? A. Yes, sir; or more.

Q. What company was doing business outside of those in your county? A. The Johnston and Acme.

Q. The Johnston was doing business there in 1902? A. They had been selling them, not in our town at that time, in the county.

Q. Are you sure the Johnston was being sold in 1902? A. It was sold in the last two or three years.

Q. I mean in the year 1902, seven years ago? A. I don't remember that far back. I have always handled the McCormick machine and never paid much attention to the other.

Q. Do you know about what proportionate part of the harvester business was done in the year 1902 by the McCormick, Deering, Plano, Champion, Osborne and Milwaukee machines? A. That was about all the machines sold.

Q. They did practically all of the business in your community in the year 1902, did they not? A. I don't remember, the Johnston and Acme, some few of them were sold.

Q. If they were represented there they did but a very small proportion of the harvester business in the year 1902, didn't they? A. Yes, sir.

Q. A very small part? A. Yes, sir.

Q. Would you say in the year 1902 that the McCormick, Deering, Plano, Champion, Osborne and Milwaukee did as much as 90 per cent of the business in your community? A. I expect they did 75 per cent.

Q. What per cent of the business in your community does the International Harvester Company now do in there, the McCormick, Deering, Plano, Champion, Osborne and Milwaukee? A. I suppose they do about 75 per cent.

Q. The Johnston I believe is the machine that was sold out at some little town four miles from you? A. Yes, sir; down at Dalton, and Salisbury also.

Q. What machines are handled at Salisbury outside of the Johnston? A. I think the Acme, Johnston and the International line, may be some Woods, I don't know whether some Woods or not.

Q. You do not know of any Wood machines having been sold in your community for the last number of years, do you? A. No, sir.

Q. In your town there is no machine sold except the machines of the International Harvester Company, is there? A. No, sir.

Q. That is the McCormick, Champion and Deering, I believe you said? A. Yes, sir.

Q. Whose farm implements do you handle outside of harvesters and mowers? A. The John Deere, Oliver, Moline and Jaynesville.

Q. Do you handle any farm implements made by the International Harvester Company except their binders and mowers? A. I handle some of their harrows and rakes.

Q. The price of different farm implements outside of binders and mowers has been increasing gradually since 1903, has it not? A. On wagons and buggies, such as that, they advanced last year about \$10.00 at one jump.

Q. There had been a gradual increase before that even in wagons? A. Yes, sir.

Q. In other goods, however, the increase had been gradual, had it not? A. Yes, sir.

Q. Do you remember whether or not the International Harvester Company decreased the price of their binders and mowers the first year after the formation of that company? A. I think they were about the same as they had been.

Q. Didn't they, as a matter of fact, decrease the price the first year they did business? A. No, sir.

Q. Did not decrease it \$5.00 or any other amount? A. Not to me.

Q. At that time they always gave to you in their \$95.00 price the transport or truck, did they not? A. I think the transport went with it.

Q. They do not do that in their \$107.50 price now? A. No, I think not.

Q. They make you pay \$3.00 extra for that? A. I think so, I think there is an additional discount of five and two off for cash.

Q. You state that other companies have endeavored to get you to take their agency? A. Yes, sir.

Q. Your reason, I believe, for not doing that was because the people wanted the machine you were handling? A. Wanted the McCormick machine, that is what I have been interested in selling, I bother about nothing else.

Q. As a matter of fact you know you could not do much business in selling the Acme or Johnston as against the McCormick? A. Not against the machine I have handled for 39 years.

Q. The International Harvester Company has in the opinion of the people, your customers, the best standard machines? A. Yes, sir; it is the best machine made out there or I would not be handling it.

Q. The competition you encounter in the sale of the machine is principally with other agents who handle the other machines of the International Harvester Company, is it not? A. Yes, sir; it has always been that way.

(Witness excused).

A. E. BETTELHEIM, of lawful age being duly sworn upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is A. E. Bettelheim? A. Yes, sir.

Q. You reside at Brookfield, Linn, county? A. Yes, sir.

Q. How far is Brookfield from here? A. 104 miles.



Q. What harvesting machines do you handle? A. The McCormick.

Q. How long have you been handling the McCormick machine? A. Eleven years.

Q. In your territory is any other machine sold except the McCormick? A. In my town.

Q. In your territory? A. Yes, sir.

Q. What other machine? A. The Deering, Champion, Johnston and Dane.

Q. Is the Acme sold? A. Yes, sir; the Acme is sold.

Q. You sell the McCormick? A. Yes, sir.

Q. That is the only machine sold in your town? A. No, the Milwaukee is sold.

Q. The McCormick and Milwaukee are the only ones sold in the town? A. That is all.

Q. Who fixes the price at which you sell your machines? A. I fix them.

Q. Is it an invariable price, or does it vary with circumstances?

A. It depends on circumstances.

Q. How do you handle the goods, how are they shipped to you?

Under what kind of an arrangement, I mean harvesters and repairs? A. I get them on a commission basis.

Q. Does that have any effect on the amount of harvesting goods and repairs you handled? A. I would not ship in so many if I had to pay cash for them.

Q. Can you tell the difference it makes in the amount you handle?

A. I don't suppose it would make any difference in the amount I would sell, but it would make a difference in the amount I would ship in, in the first shipment.

Q. Make any difference in the amount you would keep in stock?

A. Yes, sir; I would not carry such a heavy stock.

Q. What difference would it make, can you give us any idea? A. I judge about 50 per cent.

Q. What per cent of commission do you get on repairs that you sell? A. Thirty per cent.

Q. Has it always been that? A. No, it was 25 up until last year.

Q. What kind of competition is there in the sale of harvesting machines in your locality? A. We are not bothered very much with competition.

Q. Do you sell wagons? A. Yes, sir.

Q. What brand of wagons do you sell? A. The Weber.

Q. Have you sold wagons for the whole eleven years? A. Yes, sir.

Q. What has been the course in the price of wagons? A. In 1898 the first wagon that I bought were Moline wagons, I paid \$48.00 for them.

Q. What do you pay for the same wagon now? A. This spring they made me a quotation of \$66.00 for them in car load lots.

Q. What has been the course of prices in regard to other farm machinery outside of harvesters and mowers? A. It has all advanced.



Q. What per cent, how much of an advance? A. I should judge agricultural implements, not counting harvesting goods, have advanced from 5 to 10 per cent with the exception of harrows, and harrows have not advanced, I think I can buy them as cheap now as I could eleven years ago.

Q. How has the increase of price in wagons that you speak of been a gradual increase or by leaps and bounds? A. It has advanced in 5 and 10 per cent advances.

Q. At a time? A. Yes, sir.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. You live at Brookfield, let me get the machines, the binding machines that are sold in Brookfield, is the Deering sold there? A. No, sir.

Q. No agent for the Deering? A. The Milwaukee and the McCormick.

Q. The Milwaukee and McCormick are the only two binding machines that have an agency in Brookfield? A. Yes, sir.

Q. That is a city of six or seven thousand inhabitants? A. Yes, sir.

Q. Surrounded by a purely agricultural community? A. Yes, sir.

Q. You stated a while ago that you practically had no competition in the sale of binding machines? A. I didn't state so, that I didn't have any competition.

Q. I mean outside of the McCormick and Deering, you have practically no competition in the sale of binding machines? A. In Brookfield I have not.

Q. The Deering and McCormick, which have an agency each in Brookfield— A. The Deering has not.

Q. The McCormick and Milwaukee? A. Yes, sir.

Q. Both machines are owned and sold by the same Company? A. Yes, sir.

Q. No independent company has an agency there? A. No, sir.

Q. You stated there was a gradual increase in the price of farm machinery of 5 to 10 per cent.? A. Yes, sir.

Q. Which has covered a period of 8 to 10 years in that increase? A. Yes, sir.

Q. You said there was no increase in harrows that you noticed in the last eleven years? A. No, sir.

Q. Harrows are made by the International Harvester Company; they make harrows? A. Yes, sir.

Q. And their harrows come in contact with harrows made by some 15 or 20 other concerns, don't they? A. Yes, sir.

Q. So the competition that is on as to harrows really keeps down the price, does it not? A. I could not tell you; I don't know.

Q. You have been in the business a long time; what would you say as to your best judgment?

Hon. Selden P. Spencer, counsel for Informant:

We object.

Hon. Theo. Brace, Commissioner:

We have the facts and we can draw the conclusions.

Hon. E. W. Major, counsel for Informant:

Q. There has been other farm machinery that has increased in price? A. Yes, sir.

Q. Binders increased at one leap \$7.50 or \$10.00 in price, did they not? A. Yes, sir.

Q. Prior to 1902, when the International Harvester Company was formed, the principal binding machines sold in your county were the Champion, McCormick, Deering, Milwaukee, Osborne and Plano, and those are Standard machines? A. Yes, sir; they were all sold at that time.

Q. They were the standard machines of the county? A. No; the McCormick has always been the leading machine.

Q. I say those six in the aggregate constituted the standard binding machines sold in the country? A. Yes, sir.

Q. At that time what per cent. of the machines of the country did those six independent companies sell? A. The McCormick—

Q. Take the six and add them together? A. What is the question?

Q. What per cent. in your community of the machines that were sold did the Champion, McCormick, Deering, Milwaukee, Osborne and Plano sell? A. I don't quite understand the question, do you mean which machine sold the most.

Q. No; if you will just listen it is very plain; take the six companies, the Champion, McCormick, Deering, Milwaukee, Osborne and Plano, the six companies added together in their sales of machines; what per cent. did it constitute of all machines sold in your community prior to 1902, did they sell 85 per cent? A. Yes, sir; I think so.

Q. At least 85 per cent. of the business in machines? A. Yes, sir.

Q. And the other companies would sell about 15 per cent. of it? A. Well, I couldn't tell you, I don't know.

Q. In your county? A. The Johnston has always been sold in Marceline since I have sold machinery; I know they have sold a lot of machinery in Marceline.

Q. I am talking of these machines? A. There were no other machines sold at that time except the machines you mention, except the Johnston.

Q. And it is safe to say they did at least 85 per cent. of the business? A. I judge so.

Q. What per cent. of the business in your community does the International Harvester Company now do in the sale of machines? A. Well, I could not say; Marceline sells a lot of Johnston machines.

Q. Not in your community? A. Never did; the Johnston was not sold.

Q. I am speaking of your town; does not the International Harvester Company which owns these six standard makes, now sell practically all the machines sold in your community? A. No, sir.

Q. What per cent? A. I could not tell you.

Q. Would the others sell 75 per cent? A. I couldn't tell you that, I don't know; they sell a good many Dane machines.

Q. Is that a self-binder? A. They make a self-binder; they have not sold any self-binders; they have sold mowing machines.

Q. My inquiry is in reference to binders? A. I understand you.

Q. Does not the International Harvester Company of America sell 75 to 80 per cent. of the binding machines in your county? A. Yes, sir.

Q. You say you have handled the McCormick eleven years; prior to 1902 the competition that took place in your county was between the various independent companies owning the Champion, McCormick, Deering, Milwaukee, Osborne and Plano, and the only competition now in your immediate community is between the machines sold only by the International Harvester people? A. No; we have competition, the Dane and Johnston today.

Q. How many Danes were sold in your community? A. I am getting off the track again; not on binders.

Q. Binders are all I am inquiring about; if so, the International Harvester Company of America practically had no competition in your community on binders? A. The International Harvester Company may not have, but us dealers have competition among ourselves.

Q. The competition that takes place now is between the agents in the community? A. Us agents can handle outside binders if we want to, but we prefer their machine. They come to us and try to sell them. The Johnston people have come to my place and wanted me to sell binders, and so does the Dane people, and I don't want to buy them. The International have competition there because dealers can buy them if they want to, but they don't want them.

Q. There is no demand for the machines in the community, is there? A. No, sir.

Q. So that all the binding machines that are in demand in your community are sold only by the International Harvester Company of America? A. Yes, sir.

Q. Prior to the organization of the International Harvester Company of America you could buy six-foot binders with truck for \$100.00? A. Yes, sir.

Q. That was the price made to you? A. Yes, sir.

Q. Now the same machine with the truck costs you \$110.00? A. I believe \$110.50.

Q. That is correct. The company makes you a uniform price on the machine it sells you, it does not cut any in price? A. No, sir.

Q. Do you handle any other farm machinery of the International Harvester Company of America outside of binders? A. Harrows.

Q. That is all? A. That is all.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Is there anything used on a farm that has more competition in, more dealers in, than wagons? A. Yes, sir.

Q. What? A. Binders and mowers.

Q. There are more different concerns selling binders and mowers than wagons? A. I believe so; yes, sir.

Q. How many concerns do you know that handle binders and mowers? I am not talking about agents, I am talking about manufacturers? A. I thought you meant agents?

Q. I am talking about manufacturers; is there anything used on a farm that has more competition in than wagons? A. No; I don't think so.

Q. Is there anything that comes near having as many competitors as wagons? A. No, sir.

Q. Is there any article used on the farm that has increased in price more in the last ten years than wagons? A. Wagons have increased more than anything else.

Q. What machines were sold when you commenced business at Brookfield, what binders and harvesting machines? A. The Osborne and Milwaukee.

Q. Those were sold at Brookfield? A. Yes, sir.

Q. I mean in your locality; the Osborne and Milwaukee? A. Yes, sir; the Champion and McCormick and Osborne, there were some Walter A. Wood being sold.

Q. Now, what machines in your locality are sold now? A. The McCormick and Milwaukee.

Q. I am talking about your locality? A. I thought you meant Brookfield?

Q. I meant your locality? A. That is what I am giving, Brookfield.

Q. What machines were sold when you started? A. The Johnston has always been sold at Marceline.

Q. Was the Johnston sold as long ago as you started, eleven years ago? A. It seems to me it was.

Q. What others; let us get them all? A. The Acme.

Q. When you started we have got the machines sold in your locality, you can start and give them again, if you like, what machines were sold when you started? A. The Jones machine was sold in Laclede, Jones is the Plano, the McCormick has always been sold at Mendon, and just as quick as the Dane people got a machine on the market—

Q. A binder? A. A mowing machine.

Q. We are talking about binders now; let us keep our minds clear. We have the Plano, the McCormick, what other binders were sold when you started? A. The Deering was sold at Mendon, the McCormick was sold at Linneus, the Deering binder was sold at Linneus, McCormick binder was sold at Linneus.

Q. Never mind the places, give us the machines, you have named the McCormick, Deering and Plano? A. The Champion was sold at Bucklin.

Q. That was all when you started? A. Yes, sir.

Q. Now today, what machines are sold in your locality? A. The McCormick is sold at Bucklin, the Acme is sold there the Deering, McCormick and Johnston sold at Marceline, the Deering and McCormick

sold at Mendon and at Laclede, and the Plano is sold there. At Linneus the McCormick is sold, and at Perdin the Deering and Dane are sold there; I guess that is about all.

Q. The Milwaukee? A. That is sold at Brookfield.

Q. You say at Brookfield you do not have much competition? A. No; we don't cut our prices at all.

Q. If you do not have much competition at Brookfield, what is to prevent your raising the price \$15.00 or \$20.00, you say you are perfectly free to fix your retail price? A. We have no competition with ourselves, but we have competition with outside towns.

Q. How near are the outside towns? A. They range from five to ten miles.

Q. Is that the reason you keep the retail price down? A. Yes, sir.

Q. How does the machine you sell now compare with the machine you sold 11 years ago, when you started? A. The machine is made better, getting simpler all the time, more convenient devices.

Q. Do you know when the International Harvester Company commenced to sell Harrows? A. No, I don't; I don't remember, to my mind it was three or four years ago.

Q. What was the leading machine in 1900, 1901, 1902 in your country? A. The McCormick.

Q. Was it more than all the others put together? A. I don't hardly think so. It was the leading machine.

Q. Sold more than any other machine? A. Yes, sir.

Q. Has that continued to be the fact? A. Yes sir.

Q. One other question, in your territory, Mr. Bettelheim, with you as a dealer, can a farmer who wants any machine that is not handled in Brookfield get it through you? A. Yes, sir; if he will wait until I order it for him and get it for him.

Q. So far as the course of trade, it is open to the farmer to get what he wants in harvesting machines? A. Yes, sir; I get him anything he wants.

#### RE-CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. Did you ever get a farmer in your community any self-binding machine other than a McCormick? A. No, sir.

Q. Did you ever try? A. I never had any inquiry.

Q. How do you know you would? A. The reason I am satisfied that I can get any kind of binder that I want is because three years ago I ordered a Milwaukee mowing machine, and there was no agent in my town but myself, and they sent it to me without any question.

Q. You could get any binder made by the International people for which they did not have an agent in your town, you could do that, but could you get a binder, a self-binder, from some independent company? A. I am satisfied I could because outside companies, travelling men, have been to my place and begged me to take the agency for their goods.

Q. But you do not know what the International Harvester Com-

pany would say if you took the agency? A. I am satisfied they would not say anything, because I have no binder contract with them stipulating that I have to handle the McCormick and nothing else.

Q. The repairs which you handle now were handled on the same terms and conditions before the organization of the International Harvester Company? A. Except the additional five per cent. discount.

Q. They were given you on commission before the organization of the International Harvester Company and they are now given you on commission? A. Yes, sir.

Q. And the same machines are given you on discount now? A. Yes, sir.

Q. And they were given you on commission before? A. Yes, sir.

#### RE-CROSS-EXAMINATION.

By Hon. Selden P. Spencer:

Q. You say you have been solicited to act as agent for other companies? A. Yes, sir.

Q. Why didn't you do it? A. Because I was satisfied with what I was selling.

Q. How about your customers? A. My customers were satisfied with what I was selling.

#### RE-CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. You say they give you a five per cent. reduction on repairs now, but they have increased the price? A. They have increased the list, but it makes it a little cheaper.

Q. They have not increased the entire list five per cent? A. No, sir.

Q. Will it average five per cent? A. No, sir.

Q. You don't think it would? A. No, sir.

Q. So the price is practically the same now as it was then? A. No; I think some of the repairs are a little cheaper than they were.

Q. Some are more? A. I don't know; I have not discovered it yet.

Q. Do you undertake to say that the repairs of the machine, that none of them are higher than they were before 1902? A. I have not figured to see if there is any difference or not; I have noticed some items that are a little bit cheaper.

Q. You have not noticed that some are a little bit higher? A. No, sir.

Q. You do not know about that? A. No, sir.

(Witness excused.)

At this point a recess was taken until 2 p. m.



HENRY RATHERFORD, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is Henry Ratherford? A. Yes, sir.

Q. You live at Gorin? A. Yes, sir.

Q. In Scotland county? A. Yes, sir.

Q. How far is Gorin from here? A. I believe in the neighborhood of 90 or 100 miles.

Q. 100? A. Hardly that far.

Q. 90? A. Yes, sir.

Q. 95? A. I can't tell exactly.

Q. What machine do you sell? A. The McCormick.

Q. How long have you sold it? A. Since 1894.

Q. What mower do you sell? A. The McCormick.

Q. Have you sold any other mowers? A. Yes, sir.

Q. What? A. The Standard.

Q. When? A. Three or four years ago, two years ago, two, three and four years ago.

Q. Do you sell it now? A. No, sir.

Q. Why did you stop? A. My trade did not demand it any more; they seemed to like the other mowers the best; I had the least sale in it.

Q. What other harvesters are there sold in your territory? A. Well, in our town there is the Deering; is that all you mean in our town?

Q. In your territory, where you sell? A. That is about all I can do, I don't try to get into anybody else's territory.

Q. Was there any Johnstons sold in your territory? A. No, sir.

Q. How near to you? A. Seven miles.

Q. What do you call your territory? A. Between Wyaconda and Gorin, Rutledge and Arbela, and Memphis and Gorin.

Q. How many miles off are these places? A. Memphis, 15 miles; Arbela, 8 miles; Wyaconda, 7 miles; Rutledge, 6 miles.

Q. What towns have the Johnston agency? A. I think there is a Johnston agency at Wyaconda; I am positive, I think there is.

Q. Do you get all your harvester machines and your repairs on the commission agency contract? A. Yes, sir; not all, the repairs we buy sections and knives.

Q. You have the option to buy them or to get them on commission agency? A. Get them either way.

Q. What has been the course in price of farm machinery, outside of the harvester and outside of wagons, in the last 6 or 7 years? A. Why farm machinery has advanced in the last two or three years some 8 or 10 per cent., I judge.

Q. Now, in the last 6 or 7 years? A. Six or 7 years back they were not as high as they are now.

Q. How much has been the advance in the last 6 or 7 years? A. Between 8 and 10 per cent.



Q. You say 8 and 10 per cent. in the last two years? A. I think there was not much advance before this.

Q. Was there any? A. I don't think there was any in our county.

Q. How does the price of harrows compare now with the price 6 or 7 years ago? A. Harrows were cheaper.

Q. How much? A. A 10-foot harrow, \$8.50, and now it costs \$9.25.

Q. How long ago was that? A. Five years.

Q. A ten-foot harrow cost you \$8.50? A. Yes, sir.

Q. Now it costs you \$9.25? A. \$9.25.

Q. An increase of 75 cents? A. About 10 per cent.

Q. Not quite 10 per cent? A. Not quite.

Q. As I figure it, are you familiar with that clause in the contracts, the exclusive agency clause? A. It used to be there, yes.

Q. Is it not there now? A. I don't think it is.

Q. In your locality what has been the treatment of that clause since 1902?

Hon. Charles G. Revelle, Counsel for Informant:

Object to the question as wholly immaterial, it is a question of what power they had, not what they did.

Hon. Theo. Brace, Commissioner:

Objection is overruled.

Q. What has been the practice in regard to exclusive agency contracts since 1902? A. Everything has been a commission since 1902, straight commission.

Q. Do you know what the exclusive agency contract is? A. The clause in it not to handle no other goods.

Q. What has been the treatment of it since 1902, you say it is not in it? A. I have paid no attention to that part of it because we have had no cause to, they have not permitted us to handle anything else.

Q. Prior to 1902 what was the treatment of the clause? A. We had trouble with it.

Q. Who with? A. J. L. Martin.

Q. With what company? A. The McCormick.

Q. What was the treatment? A. He threatened to take up our contract if we handled any other goods than the McCormick.

Q. That was when the McCormick was running as a separate organization? A. Yes, sir.

Q. Do you know of any such treatment since the International Harvester Company has been formed? A. There has been no question about it, we have handled it since the International Harvester Company was formed.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. You sell the McCormick harvester machine at Gorin, now the only other harvesting machine that is a binder in competition in that community you say is the Deering? A. Yes, sir.

Q. Both of those machines are sold by the International Harvester Company? A. Yes, sir.

Q. You have handled the McCormick machine about how many years? A. Since 1904, not 1904—1894.

Q. Prior to the time of the organization of the International Harvester Company of America the Champion, McCormick, Deering, Milwaukee, Osborne and Plano makes of self binders constituted the principal standard binding machines in the country, didn't they? A. I judge they did, I didn't know of any more.

Q. In fact that was all of them at that time? A. I think all we run was the Deering.

Q. So in selling those self-binding machines prior to the organization of the International Harvester Company those six companies sold at least 90 per cent of the self binders sold in your community?

A. They sold 100 per cent, there was not any other kind sold, for years back, the Minneapolis sold quite a number of binders along in 1889 and along there.

Q. Up to the time the International Harvester Company of America was formed, that was in 1902, those six companies sold all the binding machines in your community? A. There never has been any other binders in the community outside of those that belonged to the International today. I don't know of one.

Q. The increase in the price of farm machinery which you spoke of a moment ago was a gradual increase that took place year after year? A. It was not very gradual with us, most all of it come in one year.

Q. Was that the case on all farm machinery? A. Well, I could not say, it was in our country, what we handled, different companies, different houses have different kinds.

Q. The increase in plows, harrows and other farm implements did not take place in the same year? A. Not quite all of it.

Q. The McCormick which you sold prior to the organization of the International Harvester Company together with the truck, sold for \$100.00? A. \$95.00 and \$100.00.

Q. \$95.00 where you paid cash? A. Yes, sir.

Q. And that included the truck? A. And that included the truck.

Q. Or \$100.00 on time including the truck? A. Yes, sir.

Q. Now, a binder sold on time costs you \$110.00 including the truck? A. \$110.50 less 7 per cent.

Q. I am speaking of on time? A. Yes, sir.

Q. On time it is \$110.50? A. Yes, sir.

Q. If cash you get 5 per cent off and 2 per cent off? A. Yes, sir; that is correct.

Q. You know while acting as agent at your place for the McCormick you have the territory known as Gorin and vicinity? A. That is the way our contract reads.

Q. And you respect that territory? A. Yes, sir; I do.

Q. The price made to you on the McCormick is a price that is

unyielding, they give you no cut? A. They never give me any cut price, I never got any.

Q. The only competition in your community is the competition existing between you as agent for the McCormick and some other men that is agent for the Deering machine? A. That is the only competition we have in our county, to amount to anything.

Q. Both of those machines are made and sold by the defendant, the International Harvester Company? A. The International Harvester Company.

Q. Now prior to the organization of the International Harvester Company you could get any machines on commission? A. Yes, sir.

Q. And you get your repairs on commission? A. Yes, sir.

Q. Today you get your machines on commission? A. Yes, sir.

Q. And your repairs on commission? A. Yes, sir; if you want to, some of them you have to take that way, some of the small ones you can get for cash if you want to.

Q. Prior to the formation of the company you could get repairs for cash? A. No, I do not think so.

Q. If you were handling the McCormick you could not buy McCormick repairs for cash? A. I don't think I could.

Q. Did you ever try or don't you know you could? A. I can't say I ever tried, I don't think you could.

Q. At any rate the majority of the repairs you are furnished now by the company on commission? A. Yes, sir.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What twine do you sell? A. The McCormick, Plymouth and sometimes the Kingland.

Q. What twine do you deal in the more? A. Mostly the McCormick.

Q. Do you make wagons yourself? A. Not now.

Q. Did you? A. Yes, sir.

Q. Up to what time? A. Up to about 6 or 8 years ago.

Q. You have always dealt in wagons? A. Ever since then, you mean?

Q. No, always? A. Yes, sir; either made them or bought them.

Q. How has the price of wagons in the last 6 or 7 years been?

A. Pretty much higher than now.

Q. Can you give us any idea how much? A. Six years ago we made wagons and sold them for \$50.00.

Q. What does the same wagon cost now? A. The same wagon now would cost \$67.00 the retail price.

Q. In your territory if a farmer wants any machine, the Aeme, Johnston or any machine that he wants, can he get it through you or any other agent?

Hon. E. W. Major, Counsel for Respondent:

Object to the question, that is speculative, unless the witness has some experience.

Hon. Selden P. Spencer, Counsel for Respondent:

What I want to establish by the witness is the accessibility.

Hon. Theo. Brace, Commissioner:

He can only testify as to facts, you cannot prove accessibility by having the witness give an opinion.

Hon. Selden P. Spencer, Counsel for Respondent:

If he was in that line of business?

Hon. Theo. Brace, Commissioner. No, sir.

Hon. Selden P. Spencer, Counsel for Respondent:

Q. You have been how long in business? A. Since 1894, I have been in business since 1893.

Q. What has been your experience during that time in regard to other machines than those handled by the International Harvester Company, has there been any demand for them? A. No, sir; not with me.

Q. In the course of your trade have you any facilities for handling them? A. No, sir.

Q. That is a fact, if a man wanted one you could not get it for him?

Hon. E. W. Major, Counsel for the Informant:

Object to the question.

Hon. Theo. Brace, Commissioner:

Objection is sustained.

Hon. Charles G. Revelle, Counsel for Informant:

#### RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Why did you quit making wagons? A. Because I could not make anything at it, I lost all I wanted to.

Q. You mean although the prices were continuing to increase rapidly and considerably? A. No, we were not fixed to make them. The factories were fixed to make them much cheaper than we could make them, we made them by hand.

Q. How long had you made them? A. My father made them, I have been making them 28 years.

Q. When did you quit making them? A. Six or eight years ago.

Q. Did you quit before the International Harvester Company was organized in 1902? A. I think not.

Q. They have been handling wagons in your community since? A. Not in our territory.

Q. Have you sold any wagons there? A. No, sir.

Q. Do you know what wagons they make? A. International?

Q. Yes? A. Yes, sir.

Q. What wagons? A. The Weber, the Columbia, the Bettendorf, that is all I know I believe.

Q. None of those three wagons are sold in your community? A. No, sir.

Q. And have not been since 1902? A. I don't know of one in our territory today.

Q. A moment ago you said something about the McCormick threatening to take up your agency if you sold other machines, did they do it?  
A. They threatened to do it.

Q. Did they take up your contract? A. No, sir; I told them to come and get it and they did not come.

(Witness excused.)

GEORGE HERMANN, of lawful age being duly sworn upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is George Hermann? A. Yes, sir.

Q. You live at Salisbury, Missouri? A. Yes, sir.

Q. That is in Chariton county? A. Yes, sir.

Q. How far is Salisbury from here? A. About 90 miles.

Q. What machine do you handle? A. The McCormick.

Q. How long have you handled it? A. I have handled it since 1900?

Q. What other machines are handled in your territory? A. The Deering, Milwaukee, Johnston and Acme.

Q. What twine do you handle? A. The McCormick and Plymouth.

Q. Who fixes the retail price at which you sell your harvesting machines? A. I do.

Q. Are you free in the matter? A. Yes, sir.

Q. How does that compare with other farm implements that are handled by other companies like the John Deere Plow Company and other companies in regard to the retail price? A. They are left to my judgment.

Q. Take plows, they do not insist that you maintain any definite retail price? A. No, sir.

Q. You are perfectly free to sell them as you like? A. Yes, sir.

Q. What in your experience has been the course of prices in regard to farm machinery outside of harvesting machinery? A. They have raised.

Q. How much in the last 6 or 7 years? A. I judge about 10 per cent.

Q. Take harrows, something was said about harrows, how much have harrows in your territory increased? A. Harrows that cost about \$8.35 cost \$9.00 at the present time.

Q. Take the repairs that you get for machines, for harvesting machines, what has been the course of prices in regard to those repairs in the last 6 or 7 years? A. There has been a little more commission to the dealer.

Q. What has been the price so far as the farmer is concerned, in the last 6 or 7 years? A. It has been the same, I think, I am not certain of that, I did not pay much attention to that.

Q. You deal in repairs? A. Yes, sir.

Q. You keep a stock of repairs on hand? A. Yes, sir.

Q. Take the price of repairs in the last 6 or 7 years to the farmer, has it increased or decreased, or remained the same? A. That is the same way, I think it has been the same as it always has been.

Q. There has been no increase in it so far as you know? A. No, sir.

Q. How about the increase in the cost of harvesting machinery up to last season? A. Harvesting machinery has increased in the last two years.

Q. Now before that was there any increase? A. No, sir; none at all.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. What was the most popular machine, one for which there was the greatest demand in the year 1902 in your community and county? A. Why in 1902 the Deering machine.

Q. What was next? A. The McCormick.

Q. What was next? A. The Milwaukee.

Q. What was next? A. Those other machines were not there then.

Q. That is, there was no Johnston or Acme there then? A. No, sir.

Q. Now in 1902 those three companies sold all the harvesting machines in your county that were sold? A. Yes, sir; I handled it the year before.

Q. What machines are handled there now? A. The Deering, McCormick, Milwaukee, Johnston and Acme.

Q. Do you know how many Johnstons were sold last year? A. This year or last year?

Q. This year? A. This year I don't know of any.

Q. How many Acmes? A. One.

Q. Do you know how many Deerings were sold? A. No, I don't know, I have no idea.

Q. Or how many McCormicks? A. Four.

Q. How many Milwaukee? A. I believe there were two as far as I know.

Q. Then, of the machines sold now in your county the International Harvester Company does 75 or 80 per cent of the business? A. I couldn't tell you anything about the county, I can only tell about my town.

Q. Well in your town? A. In my town, yes, I could figure that according to what they sold.

Q. Now, on the twine proposition, does the International Harvester Company manufacture twine and mark some of it McCormick twine, Deering twine, Plano twine and so on? A. I could not tell you, I have only handled one brand of McCormick twine.

Q. Do you not know of twine sold there as Deering brand of twine? A. Yes, they have brands on it, I only handle one.

Q. That twine is the same kind? A. I couldn't tell you.

Q. Have you seen twine any? A. It all looks alike, the Plymouth looks the same as the International does.

Q. Do you handle harrows made by the International Harvester Company? A. Yes, sir.

Q. What increase has been made in the price of harrows in the last two years? A. In the last two years they have increased from about \$8.40 to \$9.00.

Q. Are you sure that increase was not made before two years ago? A. No, sir; I am certain of it.

Q. And the price of harrows has been increased in the last two years 60 cents? A. Yes, sir; I am certain of it.

Q. What increase was made from 1902 up to two years ago? A. I didn't handle them then.

(Witness excused).

JOHN BEVAN, of lawful age being duly sworn upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is John Bevan? A. Yes, sir.

Q. From New Cambria? A. Yes, sir.

Q. Macon county? A. Yes, sir.

Q. How far is New Cambria from here? A. About 90 miles.

Q. What business are you in? A. The lumber and implement business.

Q. How long have you handled farm implements? A. Since 1902.

Q. About seven years? A. Yes, sir.

Q. What line of goods do you carry? A. At present in harvester goods, the Deering and Johnston.

Q. You are agent for the Deering and Johnston harvesters? A. Yes, sir.

Q. What about mowers? A. Mowers, I have mowers in stock.

Q. Are you agent for both binders? A. Yes, sir.

Q. How about binders? A. I have not sold any.

Q. Both for the Johnston and Deering? A. Yes, sir.

Q. How long have you had a Johnston contract? A. Two years, I had the Keystone contract at one time for one year.

Q. At the same time you had the Deering? A. Yes, sir.

Q. So that you have had at the same time the Keystone and Deering? And now you have the Johnston and Deering? A. Yes, sir.

Q. You have had them all three at one time? A. Yes, sir; part of the time.

Q. Part of the time you had three contracts, the Keystone, Johnston and Deering? A. Yes, sir.

Q. What other machines are handled at your place? A. The McCormick at present.



Q. Any others? A. Not at present.

Q. What other goods do you handle besides the International goods at your place? A. The John Deere.

Q. The John Deere plows? A. Yes, sir; and Sharflies separator and Banner buggies.

Q. What wagon do you handle? A. At the present time I am selling the Columbia wagons.

Q. What have you handled? A. The Moline and Linstrof made at St. Louis.

Q. You once handled the Keystone? A. Yes, sir.

Q. The binders? A. I had two binders and several mowers.

Q. Did you deal in the Keystone binders before the International Harvester Company was formed? A. Yes, sir.

Q. How did you handle the Keystone, on a commission agency or actual purchase? A. I purchased it outright, I was to pay for it at a certain time, had time to pay for it, what they call a November settlement.

Q. Can you give us any illustration of the general way in which the International Harvester Company people treat the owners of machines that they now handle? A. They have always treated me first-class.

Q. What happened to the Keystone? A. The Keystone binder proved to be a failure and came back on my hands.

Q. You bought it from the Keystone Company? A. Yes, sir.

Q. Before the International was formed? A. Yes, sir.

Q. What was the cause of it? A. I sold it to a customer and guaranteed it to do good work and it was returned on our hands.

Q. When did that happen? A. During harvest.

Q. What year? A. I couldn't say positive, just the year before the Keystone was taken over by the International.

Q. Go on? A. In settlement time the Deering, they gave us credit by the old binder less \$15.00 that we thought we could realize out of the machine.

Q. Was that settlement made after the International was formed? A. Yes, sir; through the Quincy house.

Q. How many years ago was that? A. I could not say positively.

Q. I mean more than one or two years ago? A. Well I think it was three years ago.

Q. In your territory has there been any increase in the price or harvesting machines since the International Harvester Company was formed, except in the last season? A. Two years.

Q. In the last two years has there been any increase in harvesting machines? A. No, sir.

Q. What has been the increase in other lines of farm implements? A. It varies on wagons and buggies up as high as 20 per cent.

Q. What would you say was the increase on farm implements outside of wagons and buggies, about what has been the increase? A. Possibly ten per cent.

## CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. You handle the Deering? A. At present.

Q. Did you handle the Deering before the organization of the International Harvester Company of America? A. Yes, sir.

Q. What was the price of the Deering together with the truck, prior to the organization of the International Harvester Company of America in 1902?

Hon. Selden P. Spencer, Counsel for Respondent:

It is admitted that six-foot binders are sold to everybody at the same price and on the same time.

Hon. E. W. Major, Counsel for Informant:

And the price of six-foot binders of each make is the same.

Hon. Selden P. Spencer, Counsel for Respondent:

Yes, sir; and the price of six-foot binders of each make is the same, the price of each sized binder is the same of each make. The price of different sized binders varies but the price of different makes of the same size is the same.

Hon. E. W. Major, Counsel for Informant:

Q. The price of the Deering prior to the organization of the International Harvester Company in 1902 of \$100.00 on time included the truck, didn't it? A. Yes, sir.

Q. And the cash price of \$95.00 included the truck? A. Yes, sir.

Q. Now, in your community at New Cambria you had an agency for the Johnston? A. Yes, sir.

Q. Did you sell any Johnstons? A. Yes, sir; sold some mowers.

Q. I am speaking about binders? A. No, sir.

Q. You sold but one Keystone binder? A. I sold but one Keystone binder.

Q. That came back and was paid for by the International Harvester Company of America? A. Yes, sir; I was given credit for it.

Q. That took place three years ago? A. I think so, the season before it was taken over by the International, the following fall they made the settlement with us.

Q. You sold the machine in the spring? A. In July.

Q. Three years ago? A. I think three years.

Q. That fall they took the machine up and allowed you credit for it? A. Yes, sir.

Q. The next spring they were in the market as the owners of the Keystone, that is the International Harvester Company of America was? A. Yes, sir; we understood it when we settled.

Q. The Keystone Company was taken in by the International Harvester Company within five months after they allowed you the credit on the Keystone, was it not, about? A. They had taken it over at the time they made the settlement with us.

Q. So when the settlement was made with you and the International Harvester Company allowed you a credit for the Keystone ma-

chine, at that time they had taken over and owned the Keystone property? A. That is the way I understood it.

Hon. Theodore Brace, Commissioner:

Q. What time was it? A. I would not say positively as to the year?

Q. Hon. E. W. Major: It was either three or four years ago!

A. Either three or four years ago.

Q. The price on farm implements in the last seven or eight years has increased eight to ten per cent, that increase has been gradual?

A. In the last two or three years.

Q. It has been a gradual increase? A. Yes, sir; I think so.

Q. And the Deering machine, together with the truck, now sells for \$110.00? A. I think so, that is to the dealer.

Q. To the dealer for \$110.50? A. Yes, sir.

Q. Now prior to 1902, when the International Harvester Company of America was formed, what machines, binding machines, were sold in your community? A. The Deering and McCormick.

Q. The Deering and McCormick and the Osborne? A. Yes, and I think the Osborne.

Q. They constituted the entire sale of binding machines in your community at that time? A. In the town of New Cambria, yes, sir.

Q. What per cent of the machines sold there now are sold by the International Harvester Company of America, about what per cent? A. New Cambria.

Q. About 90? A. Ninety-five.

Q. Prior to 1902 when you were selling the Deering, McCormick and Osborne, there, of those three machines, the total sales of the three machines, what part did the Osborne bear, did they sell a third, did it represent a third? A. No, sir.

Q. Did they sell ten per cent? A. No, sir.

Q. Did the Osborne sales represent five per cent? A. I think so, they sold a number of mowing machines.

Q. Binders is what I mean? A. Possibly two binders in season.

Q. That would represent five per cent of the sales? A. Five or ten per cent.

Q. That was prior to 1902? A. About that time.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. When you bought that Keystone—— A. We contracted for it.

Q. You contracted for the Keystone yourself? A. Yes, sir.

Q. Because you could not get it on the commission agency basis you had to buy it outright? A. Yes, sir.

Q. And you bought it? A. Yes, sir.

Q. At that time the Keystone was an independent company? A. As far as we know.

Q. You sold that machine to a farmer? A. Yes, sir.

Q. And the machine proved to be a failure? A. It was not satisfactory.

Q. What did the Keystone Company, as an independent company require you to do? A. They demanded a settlement.

Q. What kind of settlement did you make? A. We protested and refused to settle.

Q. Did you give any notices or pay any money? A. We had given a note without interest to be paid at settlement time.

Q. When you bought the machine? A. When we bought the machine.

Q. The Keystone Company as an independent company demanded you make settlement for the machine? A. When the notes became due.

Q. Say the next year? A. The following season or the same season.

Q. And the International people got hold of the company? A. Before we settled.

Q. And when you took up the settlement with the International people what was the result? A. They gave us credit by the machine, we valued the machine at \$15.00 and they gave us credit for the balance.

Q. They practically cancelled your note on the payment of \$15.00? A. Yes, sir; I later sold the machine for \$15.00.

(Witness excused).

J. B. YANCEY, of lawful age being duly sworn upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is J. B. Yancey? A. Yes, sir.

Q. You live at LaBelle, Lewis county? A. Yes, sir.

Q. How far is LaBelle, Missouri, from here? A. Well, I would call it about fifty miles, twenty miles from here to Quincy, and thirty from there to LaBelle.

Q. About fifty miles? A. Yes, sir.

Q. What business are you in? A. In the blacksmithing business, general repairs and wagon making.

Q. What harvesting machine do you sell? A. The McCormick.

Q. How long have you sold them? A. I have sold them for about seventeen years.

Q. What mower do you sell? A. I have been selling mostly the McCormick until last year I mixed it up with the Standard.

Q. You have the Standard agency? A. Yes, sir.

Q. And the McCormick agency? A. Yes, sir.

Q. Are you running them both together this year, handling them both? A. Yes, sir.

Q. And did you do the same last year? A. Yes, sir.

Q. Is the Johnston handled in your locality? A. I think Mr. Wright handled it last year. I am not certain about this.

Q. Do you know who handled it this year? A. No, sir.

Q. What other machines are handled in your territory? A. The Deering by Mr. Thresher.

Q. Did you ever make wagons? A. I am making them all the time.

Q. How long have you been making wagons? A. For about 45 years.

Q. What has been the course of price of wagons the last eight years? A. It has been about thirty per cent advance from the prices then and now.

Q. What did they sell for about eight years ago? A. About \$50.00.

Q. What do they sell for now? A. About \$65.00.

Q. The same wagon? A. Yes, sir.

Q. What has been the course of prices of farm machinery other than wagons in that time? A. I think an advance of ten to twelve per cent on it.

Q. Do you deal in harrows? A. Yes, sir; everything.

Q. How about peg harrows? A. They have advanced from \$8.00 to \$9.00.

Q. How about disc harrows? A. From \$20.00 to \$22.50.

Q. What has been the course of the price of twine in the last few years? A. Well, twine has varied in price from 15 cents down.

Q. What is the farthest down and when? A. About  $7\frac{1}{2}$ .

Q. When? A. We bought twine this year for 7 cents,  $7\frac{1}{2}$  cents, may be, I am not certain about that.

Q. That is the lowest price? A. Yes, sir.

Q. That is the price in the last eight or nine years has decreased so that you bought it from about 15 cents in your locality to 7 or  $7\frac{1}{2}$  cents? A. Yes, sir.

Q. What has been the course of prices with regard to the repairs for harvesting machinery in the last six or seven years? A. Well, repairs have been about the same, a little cheaper.

Q. Your recollection is they are a little cheaper? A. Yes, sir.

Q. Now, than then? A. Yes, sir.

Q. The price of harvesting machines, except for the last season, has there been an increase in them since the International Harvester Company was formed up to the season of 1908? A. No, sir.

Q. How is the retail price in your locality of harvesting machines fixed, I do not mean how much, I mean who fixes the retail price at which you sell? A. The local agent.

Q. Of the harvesting machines which you sell, who fixes that? A. I fix it myself.

Q. Is it fixed or does it vary? A. It varies, you have to do it.

#### CROSS-EXAMINATION.

Hon. Charles G. Revelle:

Q. Does the block man or other representatives of the International Harvester Company tell you the prices that other dealers are getting for their binders and mowers? A. No, sir.

Q. They never indicate to you what price the machine should bring? A. No, sir.

Q. Or discuss it with you in any manner at all? A. No, sir.

Q. Now, in 1902 what binders and mowers were handled in your community? A. The McCormick, the Deering, and I guess may be the Champion was handled. The machine I just spoke of slipped my mind.

Hon. Selden P. Spencer, Counsel for Respondent:

Q. The McCormick and Deering? A. The McCormick and Deering have been the two leading machines and I have handled the McCormick.

Hon. Charles G. Revelle, counsel for Informant:

Q. In 1902 neither the Acme, Johnston or Standard were handled there? A. No, sir.

Q. At this time, what machines in the way of binders are handled in your community? A. The McCormick and Deering; I suppose maybe some other machines, those were principally handled in that community.

Q. What proportionate part of the harvester business in your community is done by the McCormick and Deering machines? A. The McCormick at that time had the largest proportion of business.

Q. At this time, what part of the business does the sale of the Deering and McCormick represent? A. The McCormick represents the larger portions.

Q. What proportionate part of the entire business do the two machines represent in your community, 90 per cent? A. Yes; I think they do.

Q. You only handled the Standard mower this last year? A. This last season.

Q. It makes no binder, does it? A. No, sir.

(Witness excused.)

EDWARD HUSS, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is Edward Huss? A. Yes, sir.

Q. You live at Salisbury, do you not? A. Yes, sir.

Q. In Chariton county? A. Yes, sir.

Q. How far is Salisbury from here? A. I presume about 90 miles.

Q. What harvesting machines do you handle? A. I handle the Deering.

Q. How long have you handled it? A. Fifteen or sixteen years, something like that.

Q. Do you remember when the International Harvester Company was formed in 1902? A. Yes, sir.

Q. Well, at that time what machines were being sold in your terri-

tory? A. Well, there was the Deering and the McCormick, I think the Plano and Milwaukee were, and possibly the Osborne.

Q. At that time, was either the Johnston or Acme sold there? A. No, sir.

Q. Are either the Johnston or the Acme sold in your territory now? A. Yes, sir.

Q. For how long? A. The Johnston was sold, I think, for two years and the Acme for this year.

Q. This is the first year of the Acme? A. Yes, sir.

Q. And the second year of the Johnston? A. Yes, sir.

Q. They were never sold prior to the organization of the International Harvester Company in your locality? A. No, sir; not that I know of.

Q. Who fixes the retail price at which you sell harvesting machinery? A. Why, I do.

Q. Has anybody anything to say about it except you? A. No, sir.

Q. Is it a fixed price, or does it vary with the customers' circumstances? A. I aim to get the same price, I aim to charge one man the same price for a binder as another one, as near as I can; I am not a price-cutter, I do not believe in charging one customer more than somebody else; I do not think it just and right to charge one man \$2.00 to \$5.00 less than the other; I treat them all alike.

Q. In your practice, do you have a fixed price or do you vary the price somewhat? A. Well, I make the price before the season commences, and abide with that, sell it that way.

Q. Does the man who handles the Johnston in your locality handle any other machines? A. Yes, sir.

Q. What? A. The Milwaukee.

Q. The same man handles the Johnston and Milwaukee now? A. Yes, sir.

Q. Before the International Harvester Company was formed, the Milwaukee was handled there? A. Yes, sir.

Q. But not the Johnston? A. No, sir.

Q. Do you make wagons? A. Yes, sir.

Q. How long have you made wagons? A. About seventeen or eighteen years.

Q. What is the price of wagons now as compared with the price of wagons six or seven years ago? A. Well, take it in 1897 or 1898, I sold my own make of wagons for \$52.50.

Q. What do you sell the same wagon for now? A. \$72.50.

Q. Has that increase been gradual or by leaps and bounds? A. It seems like the increase has been possibly, I couldn't say for certain, for four or five years, that is the raw material that goes in the construction of wagons has been increasing.

Q. How much of an increase would there be at a time? A. As much as ten per cent. at a time.

Q. And the total increase was from \$52.50 to \$72.50? A. Yes, sir.

Q. Do you handle farm implements of any manufacture except the International Harvester Company? A. Yes, sir.



Q. What? A. I handle some Kingmand goods of Peoria; I handle the Satterlee, the Racine-Satterlee, it is now, and I handle some of Brown's goods of Jaynesville.

Q. Any others? A. Why, no; there are not any others that I think of right now.

Q. Has any objection to your handling those goods been raised? A. There never has.

Q. Are they handled openly in your business? A. Yes, sir.

Q. Anybody that comes in the store, can they see them? A. Yes, sir.

Q. What has been the course of prices, Mr. Huss, of farm machinery other than wagons and harvesters in the last 8 or 9 years? A. What do you mean, any advance?

Q. What has been the increase, have they ever advanced? A. Various amounts, different circumstances have caused different dealers, I am inclined to think they deviate some, the per cent. I presume would run all the way from 10 to 15 per cent; I think 15 per cent. would be the highest and 10 per cent. about the lowest, somewhere along in there; I have never figured it; that is my estimate.

Q. How are the goods shipped to you, Mr. Huss, under what form of contract, do you buy them outright? A. I buy some outright, some on commission.

Q. How about harvesting machinery? A. I handle on a commission contract.

Q. How about repairs, Mr. Huss, how do you handle them? A. Well, the castings and fixtures on a binder?

Q. Yes? A. They are commission.

Q. A commission agency? A. Yes, sir.

Q. Do you remember what per cent. you get for selling them now? A. I think I get 30 per cent.

Q. Has it always been so? A. No, sir.

Q. What has it been? A. It used to be twenty-five.

Q. How has the price of repairs run in the last 6 or 7 years in harvesting machines? A. Whether there has been an increase in price?

Q. Yes? A. Well I have noticed some decrease in price from the fact I think two or three years ago they sent me a memorandum, a decrease in repairs invoiced to me, that was sent to me. I don't know that there has been any increase in the price in the catalogue on repairs.

Q. Your experience has been in your locality, that the prices on repairs have, if anything, has decreased in the last 6 or 7 years? A. Yes, sir.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. Your judgment is that in the last 7 or 8 years repairs for machines have decreased? A. Well, not in the last 6 or 7 years, but it has in the last 4 years, I would say there has been some reduction in the list prices of repairs in the catalogue of the International Harvester Company on binders and mowers.

Q. In the last 4 or 5 years the prices of repairs have decreased?  
A. Yes, sir; to a certain extent.

Q. And you can send for repairs and get any part of a machine?  
A. Any part of the International Harvester Company goods, you mean?

Q. Yes; that is what I am speaking of? A. Well, I don't know as I could say as to that whether I could get repairs for a machine handled by an agent in my town, but repairs for machines not handled in our town—

Q. I am not asking you any such question. I asked if you can get repairs from the International Harvester Company of America for any part of the Deering self-binder? A. Well, I don't know as I can; with the exception I know I can get repairs, for a machine not handled by another agent in town.

Q. Did you say you handled the Deering? A. Yes, sir.

Q. Pay attention and answer by question. Then there is not anybody else handled the Deering in your town? A. No, sir.

Q. Then you can get the repairs for any part of the Deering machine you want from the International Harvester Company? A. Yes, sir.

Q. If the repairs have been reduced in price and you can get any part of the machine of the Deering kind, how is it that you could not send and get enough repairs and set up a new machine and get it less than a new one would cost you, is it not a fact you could? A. No, sir; the reduction would not be enough for that; I don't believe a man could handle the single pieces of repairs so cheap that he could go to work and put it together.

Q. Then there has been no substantial reduction in the price of repairs of machines, has there? A. Well, understand me, there is a list price on repairs and there are certain parts on that machine, say if it was listed at any price, you know, why there are certain parts in there that they send me a credit memorandum for the difference in the price, if there has been a reduction in repairs in certain parts that I did not carry in stock, and they sent me a credit memorandum giving me a reduction in certain pieces—

Q. You say your competitor sold the Milwaukee and Johnston?  
A. Yes, sir.

Q. How many Johnstons were sold by him? A. I could not say as to that; but my understanding is he sold two this year.

Q. Now, prior to the formation of the International Harvester Company of America in 1907, the entire sales of binding machines in your community were sales of the McCormick, Deering, Plano, Milwaukee and Osborne machines? A. Yes, sir.

Q. Now the sales of machines there and that territory sold by the International Harvester Company of America, in your territory or community, would amount to what per cent., 90 per cent. or 95? A. Yes, sir; I would say that.

Q. Now, the increase in the price of other farm machinery has been a gradual increase in the last 4 or 5 years? A. Yes, sir; something like that.

Q Now, the Deering machine, which you sold prior to 1902, sold on time, for \$100.00, including the truck? A. Yes, sir.

Q. That same machine you sell now, and did in 1908, for \$110.50 on time, including the truck; that is, it was sold to you at that price by the Company? A. \$110.50 now; yes, sir.

Q. That is the price of the International Harvester Company to you as their agent? A. Yes, sir.

Q. And the Independent Company, the Deering, prior to 1902, made you a price, including the truck, at \$100.00? A. Yes, sir; time price.

Q. What is the retail price of the Deering six-foot binding machine? A. \$120.00 to \$125.00; \$120.00 cash and \$125.00 on time.

Q. You say there is an increase on commission as to repairs, when did that increase of commission take place? A. Well, now, I am not positive about that; I don't know whether it was last year or this year.

Q. Last year or this year? A. Yes, sir; I could not say whether I got 30 per cent. last year or not, but it was either last year or this year.

Q. At any rate it was not back of last year, back of 1908? A. No, sir.

Hon. Theodore Brace, Commissioner:

One question I want to ask you.

Q. When a farmer needs repairs to his machine you have them in stock to furnish him? A. Yes, sir.

Q. Do you fix the price at which you furnish the repairs? A. No, sir.

Q. You furnish him at the list price? A. Yes, sir.

Q. The list price the company gives you? A. Yes sir.

Q. And they pay you 30 per cent. commission on that? A. Yes, sir.

Q. You do not fix the price to the farmer, but furnish it at the price the company makes? A. Yes, sir.

(Witness excused.)

JOHN BEST, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. John B. Best.

Q. Where do you live? A. I live in the capital of this county, Marion county, Palmyra.

Q. How far is Palmyra from here? A. Well, it is supposed to be 14 or 15 miles.

Q. What machine do you handle? A. The Champion.

Q. Have you handled that a long while? A. I never handled anything else but the Whitely for a year or two.

Q. How long ago was that? A. Let me see, it was somewhere in the 80's I think.

Q. How long have you handled the Champion? A. About 35 years.

Q. Well now, Mr. Best, when you get repairs for your machine today, since the International Harvester Company was formed, do you have to pay for them or do you get them on commissin? A. I get them on commission.

Q. How was it before the International Harvester Company was formed? A. I had to buy them.

Q. Was that the invariable rule? A. Yes, sir; we had to buy them.

Q. Tell us about the facility of obtaining repairs for farmers now, as compared with the time before the International Harvester Company was organized? A. Well, the facilities for obtaining repairs now are far superior than ever before, no trouble to get them, it don't take but very little time to get them.

Q. Give us an illustration, explain what do you mean by that? A. Well, the International people for machines that they have in this country, they carry a full stock of supplies in Quincy, that is one of their branch houses; I frequently, and so do the other boys, and if you are in a hurry for repairs, we turn a crank on our telephone on the table and we can have it sometimes in less than an hour and a half, if we can catch the express train, have it ready for the farmer. We can get it at any time, if we order on Sunday they will send it to us during harvest time.

Q. After church? A. I don't know.

Q. How was it before 1902, the International Harvester Company was formed? A. We had a good deal of delay and trouble, there might be repairs in St. Louis and we would telephone or telegraph for them and they did not have them and they would telephone to the factory; they are made in Springfield, Ohio, and that would make a delay in getting repairs, but we have no trouble at all with the International Harvester Company people, not a particle, we get our repairs very promptly. I think this summer I sent there for repairs for a Champion machine that I sold twenty-five years ago, made by the old Champion Company, sent there for repairs and got them. I have never failed to get repairs from them yet.

Q. What has been the course of the price of repairs since the International Harvester Company was formed? A. Why, they are lower than when the individual companies had them, a great deal lower.

Q. Do you handle twine? A. Yes, sir.

Q. What has been the course of the price of twine in the last 6 or 7 years? A. Twine has gone down in price.

Q. About what? A. Well, we handle twine in very small quantities compared as to what we formerly did. We pay  $7\frac{1}{2}$  cents for twine, what is called standard twine, first-class Sisal twine  $7\frac{1}{2}$  cents, and we pay the freight on it from St. Louis up here; buying in car load lots we get it  $\frac{1}{2}$  cent a pound cheaper; in less than 10,000 pounds we have to pay a half cent more.

Q. How does that compare with the price seven or eight years ago? A. Well, it was a great deal more then. This year we retailed it at 9 cents, last year 11 cents, and the year before that I think it was  $12\frac{1}{2}$

cents. It has come down in the last eight years, come down four or five cents a pound, three or four cents a pound, I can't give you the exact figures, I know what we sold it at. We are so enthusiastic about twine, I don't think we will buy any more; there is nothing in it.

Q. What do you mean? A. We can't make anything on it.

Q. Is there any difference in the price of twine, the International twine and the Plymouth? A. The price is the same.

Q. Which do you handle? A. The Plymouth. We handled it for years and years and years, and our customers want Plymouth twine, we don't get any more for it than the International, we don't buy it any cheaper.

Q. Do you handle any prison twine? A. No, sir.

Q. Why not? A. Our farmers don't want it up there; I don't believe there has been a pound sold there for four or five years, if any has been sold.

Q. During your experience running over so many years, what has been the price of farm machinery outside of wagons and harvesting machinery in the last six or seven years? A. We do not handle wagons.

Q. Leave that out; what has been the course of farm machinery outside of harvesting machines, in the last six or seven years? A. Some things in the last 6 or 7 years have advanced some.

Q. How much? Was it a substantial increase? A. At a rough guess, I would think probably ten per cent.

Q. Take an example, grain drill, take an 8-foot grain drill, do you handle them? A. We handle some drills.

Q. What is the price of those? A. The drill people two years ago advanced the price materially on drills.

Q. So they cost what, now? A. They cost anyway 10 or 15 per cent. more than they did.

Q. Do you remember the price now about? A. No, sir; I could not give you the price.

Q. How about disc harrows, do you handle disc harrows? A. Some few.

Q. How about the price of these? A. They have advanced \$2.00 or \$2.50; it depends on the size and equipment that goes with them.

Q. What is the price now? A. The ordinary disc harrow is about \$20.00 with the eveners, \$19.50 or \$20.00.

Q. That is an increase of \$2.00 or \$2.50? A. Yes, sir; something like that.

Q. How about peg harrows? A. They have increased from 50 cents to a dollar; we get the J. I. Case harrows, and the Collins & Company at Quincy; we have never handled the International peg tooth harrows at all I think the price is a little lower. I know the Collins prices are lower than J. I. Case's.

Q. What do you have to pay for a peg tooth harrow now? A. They run in the neighborhood of \$9.00, the larger they are the more they cost you.

Q. That is how much more than 6 or 7 years ago? A. I should judge 75 cents or a dollar more; I can't remember exactly.

Q. Mr. Best, do you know the man in your territory that handles the McCormick harvester machinery? A. Yes, sir.

Q. Does he handle any other mower besides the McCormick? A. He handles the Johnston.

Q. The same man who handles the McCormick handles the Johnston? A. Yes, sir.

Q. Do you know the man that handles the Deering? A. Yes, sir.

Q. Does he handle any other mower? A. He handles the Standard. The Standard was handled in our town long before the International Harvester Company was formed. Jackson used to sell the Standard there.

Q. What is the condition of business in the sale of harvesting machinery in your locality? A. It is shot all to pieces, there is nothing in it except good hard work.

Q. Why do you continue in it, do you crave it? A. We do it for glory, so far as our firm is concerned, we would not handle any farm machinery at all only we feel under obligations to customers whom we have sold machines in the past, that is it, we feel we ought to furnish them repairs.

Q. You are a great philanthropist? A. I am under oath now, I am telling you the truth.

Q. Con you give us any light as to the competition? A. The competition in harvesting machines is about as badly demoralized as in any other branch of business, I don't know of any other branch of business as badly demoralized.

Q. Who fixes the price at which you sell? A. The dealers.

Q. Each individual dealer for himself? A. Yes, some men sit up all night to sell a customer a binder, if he lost a dollar or \$5.00 so he keeps the other fellow from making a sale, that is the ambition of a merchant now.

Q. There is not any fixed price to the consumer? A. No, sir; we sell at any and all sorts of prices, if they can't make a sale they trade for an old one or get an old wheel barrow or something of that kind.

#### CROSS-EXAMINATION.

By Hon. E. W. Major:

Q. The harvester business is shot all to pieces, but the International Harvester Company of America does not hurt their prices when a machine is sold? A. I am not prepared to answer that question.

Q. It is a very simple one, you sell one of their machines, don't you? A. Yes, sir.

Q. No matter how much you cut the price it does not hurt them; you pay them the same money? A. Pay them what money?

Q. The list price they make to you, if you cut the machine, the company does not give you a cut? A. No, sir; unless it is a damaged machine, or carried over machine or something like that, or an old one.

(Witness excused).

J. DEAN SEVERE, of lawful age being duly sworn upon his oath testifies as follows on behalf of the Respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is J. Dean Severe? A. Yes, sir.

Q. You live at Milan? A. Yes, sir.

Q. Sullivan county? A. Yes, sir.

Q. How far is Milan from here? A. About 150 miles.

Q. What machine do you sell Mr. Severe? A. The McCormick.

Q. How long have you sold it? A. Since 1896 I believe.

Q. What other machine is sold in your territory, your locality besides the McCormick? A. The Deering and Milwaukee.

Q. Is the Dane also handled there? A. I believe Mr. Watson had a Dane machine or two this year, somebody said, I didn't see it.

Q. Is any other machine handled there? A. Not in our town.

Q. Do you handle any twine? A. A little bit.

Q. What has been the course of the price of twine in the last two years? A. It has been down.

Q. How much, from what price to what price? A. I don't know just what year, but 8 or 10 years ago, twine sold in our town for 17 or 18 cents, this year I sold what I had at 10 cents a pound, other fellows sold at 9 cents.

Q. Do you handle any prison twine? A. No, sir.

Q. Why? A. Nobody wants it that I know of, they said nothing about it.

Q. What has been the course of prices of repairs of harvesting machines in the last 6 or 7 years in your locality? A. Well, I don't know as there has really been very much change in that length of time.

Q. You think the price of repairs is about the same? A. There are some pieces I can call to mind that are a little less than they were, Pitman boxes used to sell at 50 cents a piece and now they are listed at 40 cents.

Q. How about sections? A. They used to be listed at 10, now they are 6 cents.

Q. Are they vital repairs? A. Yes, sir.

Q. What do you use the most of, does the farmer need the most, what are the most vital ones? A. Sections, Pitman boxes and Pitman straps.

Q. What has been the course of prices of Pitman boxes and straps? A. Pitman boxes are less, I do not know there is any change in Pitman straps, I am not certain.

Q. Do you sell peg harrows? A. Yes, sir.

Q. What has been the course of prices on peg harrows? A. They are a little higher than they were a few years ago, there is some advance on them.

Q. How much? A. The Case harrows sold this year a dollar more than two or three years ago.

Q. What price did you sell them this year? A. \$11.00 is the price.

Q. Last year? A. \$10.00.

Q. What did you pay for it this year? A. \$9.00.



Q. What did you pay for it two or three years ago? A. \$8.00.

Q. Do you handle other farm implements besides those manufactured by the International Harvester Company? A. I handle the J. I. Case plows and cultivators.

Q. What has been the course of prices in regard to them, about what increase? A. Well, whatever the difference would be in 47½ per cent and 40 per cent discount.

Q. Do you handle any hay stackers and sweep rakes? A. Yes, sir; the Jenkins.

Q. Do you get those on commission agency contracts the same as you did from the International Harvester Company of America? A. No, sir.

Q. How do you get those? A. I bought them.

Cross examination waived by Hon. E. W. Major.

(Witness excused).

At this point the further taking of the testimony was adjourned until November 30th, 1909, then to be resumed at Jefferson City, Missouri.

Hon. Theo. Brace, Commissioner:

This hearing is now adjourned and the taking of further testimony on behalf of the respondent in the above entitled cause will be resumed at the Supreme Court building at Jefferson City, Missouri, on November 30th, 1909.

Jefferson City, Mo.

Supreme Court building, room Division Number 2, November 30th, 1909.

Be It Remembered, That on November 30th, 1909, in the Supreme Court building, room Division No. 2, in the City of Jefferson and the State of Missouri, the following witnesses on behalf of the respondent in the above entitled cause came before Hon. Theodore Brace, Commissioner in the above entitled cause and the following appearances were had at the time:

For Informant: Hon. E. W. Major, Attorney-General for the State of Missouri.

Hon. Charles G. Revelle.

Hon. James T. Blair.

For Respondent:

Hon. Selden P. Spencer.

Hon. W. M. Williams.

Hon. Edgar A. Bancroft.

A. R. WILDER, of lawful age being duly sworn on his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. State your name? A. A. R. Wilder.

Q. Where do you live Mr. Wilder? A. Clinton, Mo.

Q. How far is Clinton from Jefferson City? A. 103 miles.

Q. 103? A. Yes, sir.

Q. What business are you in? A. Implement, farm implement and farm machinery.

Q. How long have you been in that business? A. Farm machinery exclusively, I have been in about ten years before that I was in the hardware and implement business for the last 39 years.

Q. What harvesting machines do you handle? A. I handle the International Harvester Company, the Deering and the Plano.

Q. What machine did you handle before 1903? A. The Deering and Champion.

Q. What mowers did you handle? A. I handled the Deering, the Plano and the Standard.

Q. Who makes the Standard? A. It is made by the Emerson Mfg. Co. of Rockford, Illinois.

Q. Are there any other mowers or binders, the makes of any other mowers or binders handled in your territory? A. Yes, sir.

Q. What? A. There is the McCormick, the Dane, and one other and the Milwaukee, I cannot think of the other name, Mr. Blakemore handles it, it is an independent machine.

Q. Is that the Acme? A. Yes, sir.

Q. How do the machines that are handled now compare in efficiency with the machines handled before 1903, the harvesting machines? A. They are superior in many respects, they run lighter, they are made of better material, malleable steel, all are made with an open throat.

Q. What do you mean with an open throat? A. It used to be in 1903 if you had grain four feet long it would be as long as you could throw it off in a bundle. You can bind now if it is six or eight feet, you can throw out the bundle, you can throw out a bundle of corn stalks, the knotter is better, the Appleby knotter it works better, it is more simple, it is improved somewhat, it works better than it used to in 1903, but since then for the last four years it has been very much improved, the machine has been lightened many improvements have been done, they have taken off many things and put many things on, you might say.

Q. How big a business do you do in agricultural implements, tools and machinery in dollars a year on an average? A. From 33,000 to 35,000, my business this year is 35,000.

Q. How much of that business is represented by the sale of International Harvester Company goods? A. Take all their goods together, between \$5,000 and \$6,000.

Q. How much of that is represented by the sale of harvesting goods, like mowers and binders, the harvesting line? A. This year would be \$3,000.00, last year was double that.

Q. What would be the average for three or four years? A. I would say \$4,000.00.

Q. Who fixes the retail price at which you sell goods? A. I fix it myself.

Q. For how long have you done that? A. I always did it, I never was dictated at what I sold the goods to my recollection. They recommended years ago that I should get certain prices, I never paid any attention to it.

Q. Is there any exclusive agency clause in your contract? A. No, sir.

Q. Has there been any exclusive agency clause in your contract since 1903 since the formation of the International Harvester Company of America? A. No, sir; I think not, I think that in 1903 or 1904 there might have been a clause but we were never required to live up to it, we always sold independent machines every year.

CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Mr. Wilder you say you handled the Deering, the Standard and Champion mowers? A. Not now, the Deering, Standard and Plano.

Q. Now what machines did you handle in 1902? A. The Deering and the Champion.

Q. What other machines besides the Deering and Champion were sold at your town in 1902? A. The McCormick and Milwaukee, might have been sold some other, I do not remember any others.

Q. The McCormick, Milwaukee, Deering and Champion? A. Yes, sir.

Q. Now was that the binder or mower? A. Both.

Q. Were there any other mowers excepting those you mentioned sold there in 1902? A. Yes, sir; there was one agency there, Mr. Orthwein, I think sold some Keystone.

Q. The Keystone mower? A. Yes, sir; and he sold the Buckeye, that is before the Buckeye went out.

Q. That was in 1902? A. Yes, sir; and 1903.

Q. Was the Osborne sold at your place in 1903? A. I think not.

Q. Has it ever been sold there? A. I do not think it has.

Q. Now what part of the binder business, well I believe you stated that the only binder sold in 1902 was the Deering, Champion, McCormick and Milwaukee? A. Yes, sir.

Q. Now on the mowers what part of the business was done by the McCormick, Milwaukee, Deering and Champion in 1902 on the mowers in your town? A. I would say that two-thirds of the mowers sold were McCormicks and Deerings.

Q. What proportionate part was represented by the Milwaukee and Champion? A. I sold a few Champions and another dealer that has since gone out, he sold the Milwaukee, not very many, he did not push it, he was in another business and only sold a few of them.

Q. You stated the Keystone and Buckeye mowers were sold that year? A. Yes, sir.

Q. What I want was the general average of the mower business that was done by the Milwaukee, the McCormick, Deering and Champion combined in 1902? A. I don't know as I could go back that far in my memory, I suppose I sold 25 mowers.

Q. I mean what proportionate part of the whole business, what part of the business was represented by the Keystone and Buckeye in 1902? A. Very little.

Q. You would say at least 90 or 95 per cent of the mower business was done by the McCormick, the Milwaukee, the Champion and Deering combined? A. Yes, sir; all of them.

Q. That is in your town and general territory surrounding? A. Yes, sir; in our town, Clinton.

Q. Well do you know of any other binders that were sold in your county in 1902? A. No, sir; I do not, there were very few agencies in our county as compared with what there is now.

Q. Do you know of any mowers that sold in your county outside of the Keystone and Buckeye? A. Yes, sir; a few Standard, very few sold. The McCormick and Deering always took the lead.

Q. You would be safe in saying that the combined mower business of all was done by the McCormick, Milwaukee and Deering and Champion in the year 1902? A. Yes, sir; these four machines.

Q. And all of the binder business? A. Yes, sir; pretty much all of the binder business, there were not any other binders offered there, no agencies.

Q. What proportionate part of the business done in your town now in the way of binder business is done by companies or by machines controlled by the International Harvester Company, you know what machines are controlled by that company, do you not? A. Yes, sir.

Q. What proportionate part of the business done in your town now is done with these machines in the binder business? A. Well I would say three-fourths or more.

Q. Or more? A. Yes, sir; the fact is we have tried to buy, I tried to buy Acme binders and I could not buy them any cheaper and I did not take hold of a new one.

Q. The demand is for those made by the International Harvester Company? A. Nine-tenths of the farmers call for the McCormick or Deering, very few other machines are sold, the Champion and Osborne, very few are sold, very few are called for.

Q. In fact you and your people in your community look upon these machines as practically the only standard binders now on the market? A. Yes, sir; undoubtedly.

Q. That was true in 1902? A. Yes, sir.

Q. That is also true of the mowers, is it not? A. Yes, sir.

Q. And was in 1902? A. Yes, sir; I think so.

Q. Now the prices at which you sell, do you vary these prices any? A. No, sir; we do not.

Q. You have one fixed price? A. Yes, sir.

Q. At which you sell to all people? A. Yes, sir.

Q. What is your price on the six-foot binder? A. Our price is \$140.00, that includes however the tongue truck, if we deduct that tongue truck it would be \$130.00 although the tongue truck cost us \$12.00.

Q. Is that your cash price? A. We make the cash and time the same, we do not sell on the long time price.

Q. What do you pay for a six-foot binder? A. It costs us at Chicago \$110.50, that includes the transportation truck or \$3.00 less without the transportation truck.

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Q. Before 1902 that transportation truck was included in the price of \$95.00? A. Yes, sir.

Q. Now how about the prices on the other binders sold in your community, do the agents have a fixed steady price on their machines?

A. I think not, they did not in our town, I do not think they do in the county.

Q. Do you know the average price at which the other binders sell in your territory? A. Yes, sir; the \$140.00 complete with the tongue truck.

Q. That is the other agents? A. Yes, sir; they sell at that price, there are machines sold in the county however at the cross roads and smaller towns where they sell one, two or three per year, they will cut the price but we do not cut the price.

Q. What was the retail price in 1902 of the machine you sell now at \$140.00? A. When we bought at \$105.00 we sold them at \$120.00 cash and \$125.00 on time. That included the binder with transportation truck but not the tongue truck.

Q. How much extra did you charge for the tongue truck then? A. It was not out in 1902.

Q. You did not have it? A. No, sir.

Q. I believe you stated in your opinion the machines were somewhat better improved now than in 1902? A. Yes, sir.

Q. That is true of all machines? A. Yes, sir.

Q. Whether made by the International Harvester Company or the independent companies? A. Yes, sir.

Q. How many agents has the International Harvester Company of America in your town and territory? A. They have in my town three.

Q. Do you know how many they have in the territory over which you sell? A. No, sir; I should think though there are eight or ten, I could tell, yes, sir; they have at least a dozen in the county.

Q. That is on the binders and mowers? A. Yes, sir; on the binders and mowers.

Q. They also have their representatives who handle their wagons and their implements? A. Yes, sir.

Q. Now how many agents are in your town representing independent companies on the binders and mowers? A. I think that the same agents that represent the International Harvester Company of America represent all of the other independent companies unless it is the Woods and Johnston which they do not try to sell there, we have no representatives, I handle their goods and the other agents have them. I am not sure whether I am right on the number of independent machines.

Q. The Acme is represented there? A. Yes, sir; the Acme.

Q. Both the binder and mower? A. No, sir; the Acme is not represented in my town on the binder, it is on the mower and also the Dane and the Standard.

Q. That is not a binder, the Standard? A. No, sir; there are no other binders except the International Harvester Company of America.

## RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Mr. Wilder, the McCormick and the Deering and the Champion and Milwaukee in 1902, I understood you to say practically did all the harvesting business in your territory? A. Yes, sir.

Q. Now the International Harvester Company of America does, you think, about three-fourths of the harvesting business in your territory? A. Yes, sir; I think so.

Q. Has there been any increase in the price of harvesting machinery between 1903 and the year 1907 until for the season of 1908? A. No increase from 1903 to 1907 in the fall of 1907, they made an increase for the year 1908.

Q. That is the increase you spoke of? A. Yes, sir; that is, on at present, it was made in the fall of 1907 for 1908.

(Witness excused).

E. W. MILLER, of lawful age being duly sworn upon his oath testifies as follows on behalf of the Respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. E. W. Miller.

Q. Where do you live? A. At Agency, Missouri.

Q. How far is Agency from here? A. About 215 miles by rail.

Q. What business are you in? A. I am in the general merchandise business and farming.

Q. How long have you been in the business of handling agricultural machines and tools? A. About 23 years.

Q. Prior to 1903 Mr. Miller was the retail price at which you sold to the farmer dictated to you? A. Yes, sir; I was the agent for the Deering, they used to dictate the price.

Q. At which you should sell to the farmer? A. Yes, sir.

Q. Since 1903 who fixed the retail price at which you sold to the farmer? A. Why there is no price fixed.

Q. In fixing the price it is done by whom? A. I fix it myself.

Q. Does it vary? A. Yes, sir; I do not sell to all alike all the time.

Q. What would be the amount of your trade in farming implements, tools and machinery a year in dollars and cents? A. It varies.

Q. On the average? A. Well last year, this year rather, we sold about \$10,000.

Q. Would that be a fair average for the last five years? A. No, sir; we sold more in past years, we have had high water.

Q. At least \$10,000 would represent your sales in tools and machinery? A. Yes, sir; that much.

Q. On that basis, what amount is represented by goods of the International Harvester Company of America that you sold? A. About one-fourth.

Q. About a fourth? A. Yes, sir.

Q. Of that amount your gross sales, what is represented by harvesters and mowers alone? A. About \$2,000.00 I think.

Q. Has there been any new general agency for the dealing in harvesting machinery established in your locality in the last six or seven years since 1903? A. Year before last the Acme established an agency in our town.

Q. What competitors have you now? A. The Acme is all.

Q. Is the Johnston handled in your neighborhood? A. No, sir.

Q. What mowers are handled in your territory besides the ones handled by the International Harvester Company of America? A. The Acme.

Q. Is the Dane in your neighborhood? A. Not in my town.

Q. How near? A. St. Joseph.

Q. How far is that? A. Twelve or fifteen miles.

Q. Is the Standard? A. I think the Standard is handled in St. Joe, yes, sir.

Q. Is the Johnston handled there? A. I have never heard of that, no, sir.

Q. Is there a general agency for the International Harvester Company of America at St. Joseph? A. Yes, sir.

Q. How long has it been there? A. I judge about eight or ten years.

Q. Was it there prior to 1903? A. No, sir.

Q. Sometime between 1903 and the present time it was established?

A. Yes, sir; they built a new building and keep a full line of repairs.

Q. What effect does it have on the accessibility or efficiency for the farmer on repairs for the machines of the farmers? A. It is a great advantage.

Q. How? A. We can order, we can get our extras in a hurry and save us time and also in carrying a large line on hand.

Q. Where did you get them before? A. Kansas City, about fifty miles.

Q. How do you sell repairs? A. We sell them on commission, that is they furnish a book with prices and the parts of repairs and then we order and sell them and at the end of the year when we settle up they allow us 25 per cent.

Q. You have no money invested? A. No, sir.

Q. Are you limited as to the amount you carry? A. No, sir.

Q. Does it have any effect on the amount you carry by getting them on commission? A. Yes, sir; I would not carry very many if I paid cash for them.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. You never paid cash for repairs before 1902? A. No, sir.

Q. You got them on commission then? A. Yes, sir.

Q. They sold and shipped you any amount then? A. Yes, sir.

Q. They have not been any more generous since 1902 than they



were before 1902? A. No, sir; the only advantage is we have a general agency it is closer to us. The one we have now is a general agency being in twelve miles of us.

Q. In 1902, what binders were represented and sold in your community? A. There never has been an agent there but myself, that is, Miller Bros. and we always handled the Deering.

Q. You always handled the Deering? A. Yes, sir; until two years ago when the Acme was handled by Riley and Ousley.

Q. That is since 1902? A. Yes, sir.

Q. Did you not encounter any competition at all before 1902 in the sale of machines? A. Yes, sir; we had competition from other agents, understand, in other towns.

Q. What machines were sold by these other agents with whom you came in competition? A. The Deering principally, and the McCormick, they were our principal competitors.

Q. Were there any others that you came in competition with in your territory before 1902? A. Well there were very few machines sold, I do not think there was, no, sir.

Q. At that time the competition between the Deering and the McCormick companies was pretty fierce in that territory, was it not? A. It is about like it is now.

Q. It was pretty fierce? A. Yes, sir; the competition was pretty sharp, always has been in fact.

Q. The Deering Company and the McCormick Company sent in canvassers to aid the local agents in making sales? A. They furnished the agents of a town the canvassers to make sales.

Q. You usually, prior to 1902 had the canvassers in there, the Deering and the McCormick? A. We usually have one every year.

Q. I mean before 1902? A. Yes, sir.

Q. Before 1902 the prices to the farmers were frequently cut were they not, when each agent would get hold of a prospective purchaser during the war time, the practice was common to reduce the prices to the farmers? A. The price was supposed to be a certain price but it was always cut more or less sometimes.

Q. Is it not a fact the Deering and McCormick people when they encountered fierce competition between one another would they not reduce the price to the agent whenever they would have to reduce the price to the purchaser? A. No, sir; I do not think I ever had a cut.

Q. Did you prior to 1902 ever take in old machines? A. They would allow \$5.00 on old machines occasionally.

Q. That is the company? A. Yes, sir.

Q. They have never done that since 1902? A. No, sir.

Q. Nor do they now since the International Harvester Company of America was formed? A. I do not remember that never was done very much with me any way, probably in two or three cases, I do not remember whether it was before or since.

Q. You have no recollection of that being done in the last four or five years have you? A. No, sir; I do not think it has been.

Q. The prices since 1902 have always been the same to you? That is, the company never has made any reduction to you because of com-

petition you encountered or for any other reason? A. They never did do that.

Q. They allowed you nothing in the way of old machines or any thing else since 1902? A. No, sir.

Q. Off of the list price? A. No, sir.

Q. What price do you sell the six-foot binder? A. We sell it at \$130.00.

Q. Is that the fixed price you have on the machine? A. No, sir; we simply add the profit.

Q. Is that the regular price at which you sell to all people? A. That is only in a few cases I have cut the price in competition with other agents, I did last year on several occasions and this year twice, in competition with other Deering agents.

Q. You have always done that in competing with the Acme Company? A. No, sir; I never considered them much competition because their machinery was not as good as the Deering.

Q. The truth of the matter is in your community the sole demand is for machines made by the International Harvester Company of America? A. I think the Acme sold three binders in my town this year.

Q. And you? A. I sold 8 or 10 myself.

Q. How many mowers have you sold? A. I did not sell many this year, last year we sold about 25 mowers.

Q. How many did the Acme people sell? A. Oh three or four.

Q. How many binders do you say you sold, eight or nine binders this year and the Acme three? A. Yes, sir.

Q. How many binders did the other Deering agents sell in your territory? A. The agent at Hempill sold one in my territory that I should have sold.

Q. That is ten Deerings sold in your territory? A. Yes, sir.

Q. How many McCormick? A. I don't know.

Q. Several? A. No, sir.

Q. How many? A. Two or three. I do not sell the McCormick now.

Q. You came in competition with the McCormick agent? A. Yes, sir.

Q. Now you stated that you sold it this year or had done a business this year amounting to \$10,000.00? A. Yes, sir; on farm machinery.

Q. Does that \$10,000 cover only machines and implements that are manufactured for the International Harvester Company of America or do you handle also some implements not made by the International Harvester Company? A. I can tell about the lines I handle. The John Deere Plow Company and the Rock Island Implement Company.

Q. What lines do they make? A. Plows, cultivators and disc harrows and steel harrows, corn planters and Brown cultivators, and the Roderick Dean & Co. cultivators and harrows.

Q. Is that with your binders and mowers, your sole implement business? A. The wagons, Peter Schutler and the Banner Buggy Company of St. Louis, that is what I call my implement business.

Q. On binders and mowers, your sole business in that community is represented by the business you have done for the International Harvester Company of America? A. Yes, sir; in binders and mowers.

Q. Do you handle any other implements or machinery excepting binders and mowers made by the International Harvester Company? A. Rakes.

Q. What kind of rakes? A. Hay rakes, McCormick hay rakes.

Q. Is that the only implement you handle of theirs? A. And the International Harvester Company sweep rakes and wagons, that is, some few wagons, the Weber wagon.

Q. What other implements of theirs? A. I believe that is all.

Q. When did you begin handling the Weber wagon? A. About ten years ago I think.

Q. That was before it was purchased by the International Harvester Company of America? A. Yes, sir.

Q. What is the price of the Weber wagon in 1902, that is the price you had to pay for it? A. I cannot remember, I know wagons have advanced.

Q. Now the Weber wagon made by the International Harvester Company has not advanced as much as some of the wagons made by the independent companies? A. I do not think they have advanced as much as the Peter Schutler.

Q. In fact from your general knowledge of the prices of wagons they have not advanced the prices on their wagons as much as most of their competitors have, have they? A. I am not acquainted with the prices of all wagons.

Q. But those with which you are acquainted? A. Not as much as the Peter Schutler that is the only one I am acquainted with the price.

Q. The International Harvester Company of America has a great many competitors, I believe, on wagons, have they not? A. I don't know.

Q. They have several in your community? A. No, sir; not in my community.

Q. You mean there are only the two wagons sold there, the two you sell there? A. That is all.

Q. There are other wagons over the territory you sell binders and mowers? A. Yes, sir.

Q. What other wagons are sold in that territory? A. More Peter Schutler than anything else.

Q. Name some of the others? A. Well the Bain, and you will see a stray wagon of all makes occasionally but the Bain and Peter Schutler are the main wagons in my territory.

Q. You are the only wagon dealer in your town? A. Yes, sir; I am the only one.

## RE-DIRECT EXAMINATION.

Hon. Selden P. Spencer:

Q. Mr. Miller you get 30 per cent commission on repairs you sell now, do you not? A. I thought it was 25 per cent, I might be mistaken, but I think it is 25 per cent.

(Witness excused).

JAMES BLAKEMORE, of lawful age being duly sworn upon his oath testifies as follows on behalf of the Respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is James M. Blakemore? A. Yes, sir.

Q. You live at Clinton? A. Yes, sir.

Q. Henry county? A. Yes, sir.

Q. How far is Clinton from here? A. I don't know, the railroad fare is \$3.60, that includes the bridge.

Q. What line of business are you in now? A. I handle farm machine implements.

Q. How long have you handled farm machinery? A. Thirty years I suppose.

Q. What harvesting machinery did you handle before 1902 and 1903? A. We have handled McCormick machines ever since I have been in the store, we handle some other lines away back there the Empire and the Syberling before 1903.

Q. Before 1903, when you handled the McCormick, how much of the territory did you really have? A. Well I had Henry county outside of Windsor, one town in the corner, although that was not stipulated in the contract, it was understood I should have Henry county. Before the merger I had practically all of Henry county except one little part.

Q. How much have you now for the last three or four years? A. Very little, in fact they have an agent at every station all over the county.

Q. How many agencies would you say there was now in Henry county in the same territory you were alone in 1903? How many are there now? A. Twelve to fifteen.

Q. How much of a stock of goods do you handle in a year in dollars in farm implements, tools and machinery? A. We sell from 15,000 to 20,000 per year.

Q. What proportionate part of that is represented by goods sold for the International Harvester Company of America? A. This year we sold \$3,500.00 worth for the International Harvester Company of America.

Q. And of your entire agricultural sales of agricultural tools and machinery, what proportionate part would the harvesting machines and mowers bear? A. I suppose \$2,200.00 for those binders and mowers.

Q. Have the machines of the International Harvester Company of America changed any since 1903 in efficiency or durability in any way?

A. They have changed and some parts not needed have been taken out. It is simpler now. I suppose it is a better machine than in 1903.

Q. What makes you say that? A. There are lots of parts they have taken out that they did not need as many, they will not wear out as fast, the machine worked good up to that time.

Q. It works better now? A. Yes, sir.

Q. Was there any increase in price between 1903 and 1907 until for the season of 1908? A. No, sir.

Q. It remained stationary? A. Yes, sir.

Q. Do you handle the harvester line for the International Harvester Company of America alone? A. Well, practically I do, I have an agency there for the Acme machine.

Q. You are the agent for the Acme? A. Yes, sir; I sold one more of theirs.

Q. Why is that? A. I did not try to sell any more.

Q. You have the agency? A. Yes, sir; when I started in with them I figured I was going to get a better price but there was nothing to it and of course I will drop that machine next year.

Q. Do you handle any mowers? A. Yes, sir; we handle mowers made by the Dane people.

Q. What competition have you in your territory? A. Well really there is no trade in that territory except on the Deering and McCormick machines, of course there are a few others sold.

Q. What others? A. The Milwaukee and Plano and this Acme.

Q. Is the Woods sold there? A. No, sir.

Q. Or the Johnston? A. No, sir; none of them are sold there this year.

Q. How do you deal in repairs? A. Well the greater part of the repairs we carry on a commission basis, that is, of those pieces you may use and might not, of course we buy a great many what we term net repairs, like sections outside. We do not buy them from the International Harvester Company of America, this year we did. They made us as good a price as the other people.

Q. Take the repairs most often needed by the farmer, how do you handle them? A. Those, we buy but those other pieces, those parts of the binders that sometimes we might carry ten years, and never have a call for, we carry them on a commission.

Q. You do not have to pay for them until they are sold? A. No, sir.

Q. You get a commission? A. Yes, sir.

Q. What commission do you get? A. 30 per cent.

Q. What did you use to get? A. 25 per cent.

Q. Suppose a piece broke the first year on the machine? A. We give them a new piece and charge it to the company.

## CROSS EXAMINATION.

By Hon. Chas. G. Revelle:

Q. What is your town? A. Clinton.

Q. Now you handle the McCormick binder and mower? A. Yes, sir.

Q. And also have the agency for the Acme? A. Yes, sir.

Q. But have not been pushing that? A. No, sir.

Q. There is no demand for it in your community? A. No, sir; no demand for it.

Q. Who handles the Deering? A. Mr. Wilder.

Q. Who handles the Milwaukee? A. I think Hastell Rose. If it is handled, they either handle the Plano or Milwaukee one, I don't know which.

Q. There are no binders represented there except the binders of the International Harvester Company of America, is there? A. No, sir.

Q. How about in 1902, what machines were sold there then? A. Just the same machines I think, the Champion, Milwaukee and Deering. I do not think any Woods machines were sold there that late.

Q. Of course then these companies, these binders of the International Harvester Company of America does all the business there? A. Yes, sir.

Q. On the mowers, what part of the business is represented by the mowers of the International Harvester Company of America? A. I would say about all of it, perhaps ninety per cent or practically all of it.

Q. The competition that you have there now is simply the competition between the agents then of the International Harvester Company of America? A. Yes, sir.

Q. And there is one fixed designated price that you invariably pay the company for your machines? A. Yes, sir; there is a price fixed for me by the company that I have to pay.

Q. That is not varied from? A. Not for a long time.

Q. Not since 1902, was it? A. No, sir.

Q. Was it before 1902? A. I could not say it was, I don't know, we have got no reduction.

Q. Well can't you remember an instance Mr. Blakemore when you would get pretty hot after a prospective purchaser and another company's canvasser would be after him and you would make a reduction to him and the company would allow you something on that reduced price? A. That perhaps would apply away back twenty years ago, it might have been a few times like that when we did most anything.

Q. Would you say that condition did not exist in 1900? A. No, sir.

Q. Would you say three or four years prior to 1902, they took in no old machines on part payment for new ones? A. I have taken in old machines but on my own responsibility, the company never made me any allowance, I disposed of them on my own responsibility.

Q. You think there being no demand for the Acme machines you do not expect to continue to handle it? A. No, sir.

Q. If that agency is dropped there is no agency of the independent company there? A. They may go along and put in another agent, other dealers may get into it.

Q. Are not the dealers at that place now agents of the International Harvester Company of America? A. Yes, sir.

Q. And have been for some time, have they not? A. Yes, sir; I think so, each one have had a machine of their own, yes, sir.

Q. Now you say the machines since 1903, have been somewhat improved? A. Yes, sir; but the particular machine I handle the McCormick, it has been improved.

Q. Well this company was improving its machine before 1903, from year to year? A. Yes, sir.

Q. In fact, Mr. Blakemore, were there any more improvements put on the McCormick machine for the last three or four years prior to 1903, than there has been since 1903, more improvements made? A. I would not like to say, because they made improvements that were not important, the improvements were not as good as before. Since then they have changed that binder and that machine is better than before.

Q. Was that binder improved before 1902 or since then? A. This last year.

Q. What one do you refer to? A. The arrangement in the binder, I cannot explain to you unless I had a model here, the machine was inclined to lock when getting into the mud.

Q. The improvement since 1903 was taking pieces away from the machine? A. Yes, sir; the most I know.

(Witness excused.)

SMITH CLEMMINGS of lawful age being duly sworn, upon his oath, testifies as follows, on behalf of the respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. State your name? A. Smith Clemmings.

Q. Where do you live? A. Platte City.

Q. How far is Platte City from here? A. About 27 miles northwest of Kansas City from here.

Q. From here? A. About 190 miles from here to Kansas City, about 217 or 218 miles.

Q. What business are you in at Platte City? A. Hardware and implement business.

Q. How long? A. Since 1906.

Q. For the last two or three years you have been in that business? A. Yes, sir.

Q. Were you in it before? A. I was under the employ of my father in 1899 and part of 1900.

Q. What business? A. The same as now.



Q. Was your employment such as to give you familiarity with the business? A. Yes, sir; I carried on the correspondence for the house and sometimes I signed up contracts for my father.

Q. Were you familiar with the machines handled then as well as now? A. Yes, sir.

Q. Between 1900 and 1906 were you engaged in the Harvesting business? A. Yes, sir; I was a farmer then.

Q. Were you engaged in the binder business in 1900? A. Yes, sir.

Q. And resumed in 1906? A. Yes, sir.

Q. What harvesting line did you handle in 1900? A. My father handled the Deering and the Champion.

Q. What do you handle now? A. I handle the McCormick, Champion, Plano and Milwaukee.

Q. Now, of these machines, take these machines as they are now, compare them with your familiarity with them in 1900, has there been any changes? A. Yes, sir.

Q. What? A. The McCormick binder has changed a great deal in simplicity, and as far as the mechanism is, it is very superior than what it was then in 1899 and 1900. The McCormick binder was a failure.

Q. Has there been a change in the last two years? A. Yes, sir; this last year especially.

Q. What was it? A. They changed the knotter on the binder and changed what we call the main driving part, what I would term it. It used to be a long arm and they changed it and made it shorter; it is more compact, lighter draft; they have a very good machine.

Q. How with the Champion machine? A. I only sold one since I have been in business, that was in 1907.

Q. Did you use to sell them in 1899 and 1900? A. Yes, sir; my father sold the Champion machine.

Q. How do the machines compare? A. It is much better than in 1899.

Q. How is the condition with repairs as to accessibility and efficiency the last two years, than before when you were in business in 1900? A. It is better than what it was then.

Q. How? We used to have to order from St. Joe, now we can get from Kansas City and get the orders by telephoning and express and in 1899 they could not get their repairs that way, but now when we order repairs you get it.

Q. If you ordered repairs for the farmer in these former years there was a delay? A. Yes, sir; we had to get them from St. Joe; they did not handle the repairs as you can get them now. I have been astonished in getting my repairs as quick as I did.

Q. What are the character of repairs now? A. They are better than I ever saw them.

Q. I mean as to your experience now and in 1903? A. The repairs look cleaner and stronger than before.

Q. How much in business do you do? A. We do on the average

of \$18,000 per year, some years we do not do as much and some we do more on the average, about \$18,000.

Q. How much of that would average of the International Harvester Company of America? A. Understand that includes the sale of stoves and buggies.

Q. How much did you do in farm implements and tools? A. Well, you include in that wagons?

Q. Yes, sir? A. About 12,000.

Q. That is your average? A. Yes, sir; for the farm business.

Q. Of that amount, what proportionate part is shown by the goods of the International Harvester Company of America? A. About one-fourth, probably not quite so much.

Q. Now, of that business, what proportionate part is done by the harvester lines, binders and mowers? A. Well, about two-thirds.

Q. Two-thirds of what? A. Two-thirds of one-fourth.

Q. \$12,000 of one-third would be one-fourth of that, \$3,000.00, and the \$2,000 for binders and mowers would be about \$2,250.00; that is, you did about \$3,000.00 worth of binder business of the business of the goods of the International Harvester Company of America? A. Yes, sir.

Q. Now, what proportionate part of the harvester goods of the International Harvester Company of America does these other harvesters and mowers bear? A. I sold \$2,250.00 out of the \$3,000.00.

Q. Mr. Clemmings, did you handle other makes of farming implements, tools and machinery besides? A. Yes, sir.

Q. Has there been any objection to it? A. By the International Harvester Company people?

Q. Yes, sir. A. No, sir; never has been a word.

Q. Are there any restrictions as to what you should sell their goods? A. No, sir; they were never quoted to me.

Q. Was there in 1899 or 1900? A. I think the Champion told us what to sell for, we generally sold at what we pleased.

Q. In your general territory is the Acme sold? A. Yes, sir; in my general territory.

Q. Is the Acme sold? A. Yes, sir.

Q. Is the Woods sold? A. Yes, sir.

Q. And the Johnston? A. Yes, sir.

Q. And the Dane? A. Yes, sir; I think so.

Q. And the Standard? A. Yes, sir.

Q. Were these sold in 1899 and 1900? A. The Wood was sold.

Q. But not the other? A. No, sir; not as I remember of.

Q. You handle plows? A. Yes, sir.

Q. How much does the 12-inch plow weigh? A. About 95 pounds.

Q. What is it sold for? A. \$12.00 steel beam plow.

Q. How much does a heating stove weigh? A. A 16-inch heating stove weighs 165 to 175 pounds.

Q. What does it sell for? A. About \$22.00 to \$23.00.

Q. How much does an ordinary stove weigh, a cooking stove? A. A good range, 465 pounds.

Q. What does it sell for? A. \$55.00.

- Q. What does a sulky plow weigh? A. About 425 or 450 pounds.
- Q. What does it sell for? A. \$35.00.
- Q. The six-foot binder weighs how much? A. I don't know exactly what they do weigh now, about 1,600 or 1,800 pounds.
- Q. What do you sell them for? A. We do not sell 6-foots.
- Q. What do you sell? A. 7 and 8, mostly 8.
- Q. How much does an 8-foot binder weigh with transport truck?
- A. I think they are billed out at 2,100 pounds.
- Q. What do they sell it for? A. \$150.00 cash.

## CROSS-EXAMINATION.

Hon. Charles G. Revelle:

Q. Up until what year was it, you stated the McCormick binder was a failure? A. In 1899 the McCormick binder was as near a complete failure as I ever saw.

Q. You mean up to that time the McCormick binder was a complete failure? A. No, sir; but during that year in 1899.

Q. What change was made on their binder in 1899 to make it a failure? A. As near as I can get at it it was the lengthening of the breast plate underneath the knotter, and then they had another place at the trip, that is, at the end of the binder, and it was made in a bevel shape so that in traveling fast in the mud it would kick out very small bundles, it would slip out; they changed it from a left hand to a right hand binder. Up to that time, 1899, the McCormick had more machines sold in that neighborhood than any other machines.

Q. How about the sales in that year? A. They were very poor.

Q. Now, when was that machine changed back to the condition that it ceased to be a failure? A. That was in 1899, I was in there with my father in 1900 two months, I left it and never paid much attention to it after that; it seems that the Plano took the country then. I came back in 1906 and the McCormick had made a change then during the lapse of time from 1900 to 1906, I don't know when they changed it.

Q. You don't know whether it was changed before 1902 or not?

A. No, sir.

Q. When was it they put their low binder out? A. I don't know.

Q. That was not during the time that you were in the business?

A. No, sir; I do not remember of them having the low binder out.

Q. Well you don't know what improvements was put on that machine from 1902 up to 1906? A. No, sir.

Q. What improvements have been put on the machine since 1906?

A. Well, one particular thing was made in the latter part of the season of 1908, that was a new knotter, the type "B," and the concentration of a good many parts of different parts of the binder into one part, and a strengthening of the binder in a good many places and the neatness of the binder altogether, but in particular the knotter.

Q. In the latter part of 1908? A. Yes, sir; after they had changed it, we did not get a hold of it, the last machine I bought in 1908 for the farmer to get his grain cut was the latest machine, I don't know when they put it on it.

Q. What other improvements did they put on besides the wonderful improvements you speak of that has been made since 1906? A. The general appearance of the machine, I could not tell you exactly. They have made several improvements.

Q. You mean the painting of it? A. Yes, sir.

Q. It is a nicer looking machine? A. Yes, sir.

Q. It is a neater machine? A. Yes, sir.

Q. It is more pleasing to the eye? A. Yes, sir.

Q. It has a pleasing appearance? A. Yes, sir.

Q. It cuts more wheat? A. Yes, sir; he will go out well satisfied.

Q. It helps to sell the machine? A. Yes, sir.

Q. The construction of the McCormick does help cut the wheat?

A. It has been put in such a condition that the agents can sell it more easily.

Q. Not any more than the others? A. They have improved all of the other machines. It seems that there is better material and it will take a better finish.

Q. This improved knotter, has it been put on all machines? A. No, sir; the McCormick had a poor knotter and they put on type "B."

Q. How do the prices of repairs now compare with those in 1902?

A. Our repairs are cheaper. When the—

Q. You have nothing to do with fixing the prices at which you sell the repairs to the farmers, have you? A. No, sir.

Q. That is fixed absolutely by the Company or is it with the Company? A. It is with the Company.

Q. I am asking you about this Company? A. Yes, sir; it is in the catalogue what the pieces will cost us.

Q. The prices at which you charge the farmer has been increased from what the prices was sold to the farmer before? A. I could not say.

Q. What machines did you say was sold in your community in 1899? A. The Deering, McCormick, Champion, Milwaukee.

Q. That all? A. Yes, sir; and the Plano, that was introduced in 1899.

Q. Were there any more sold there outside of these? A. Yes, sir.

Q. In 1899? A. Yes, sir; I cannot say positively whether there was a mower or not; no, sir, I cannot say whether there was a mower or not.

Q. Were you in close enough touch with conditions in your town and community to know whether there were any other mowers and binders sold in your community other than those you mentioned? A. No, sir.

Q. At that time then the entire binder and mower business was done by companies that later went into the International Harvester Company of America? A. Yes, sir.

Q. Now, since 1906 what binders have been sold in your community? A. Well, there has been the Acme sold in our community.

Q. And all of these others being there in 1899 are sold there? A. Yes, sir.

Q. Any others besides the Acme? A. Not in the harvesters; no, sir.

Q. How many Acmes were sold there this last year? A. I cannot answer it.

Q. You know it is not very much of a competitor. A. We run up against it every once in a while in our business.

Q. You do not run up against many farmers calling for it? A. They talk it pretty strong.

Q. Do you know of a single sale this last year? A. No, sir.

Q. Or a single sale last year? A. No, sir.

Q. Or the year before? A. I have heard of some sales; I cannot say, yes, I have not seen a binder in the field.

Q. You are safe in saying that fully 98 per cent. of the business is done by the International Harvester Company of America? A. Yes, sir; in the binder business.

Q. How about the mower business? A. A few Standard mowers are sold.

Q. When did they commence handling the Standard mower? A. A long time ago.

Q. Before 1902? A. Yes, sir; I think so; I did not pay much attention to it.

Q. There are at least 85 or 90 per cent. of the mower business done by the International Harvester Company of America? A. About 80 per cent.

Q. I understood you to say that out of your \$12,000 annual business that about \$3,000 worth of that was implements you sold you bought from the International Harvester Company of America? A. Yes, sir.

Q. About \$3,000.00? A. Yes, sir.

Q. What did you handle in the International Harvester Company of America excepting their binders and mowers? A. Their sulky rakes and peg tooth harrows and five-tooth harrows, their gasoline engines and twine and cream separators.

Q. That all? A. Yes, sir.

Q. You handle none of their wagons? A. No, sir.

Q. Still you did \$9,000.00 worth of business on other farm implements? A. Yes sir; that is, farm implements, buggies and wagons.

Q. I would like to know what implements you included as farm implements, representing that \$9,000.00 of your annual business? A. I mean by that buggies and wagons, and walking cultivators, riding cultivators, sulky plows, walking plows, listers, drills, and listing corn drills, corn planters, and listing corn cultivators, wheat drills.

Q. You have got buggies and wagons? A. Yes, sir.

Q. Wheat drills? A. That is included, that might be more, manure spreaders, disc harrows and other things.

Q. You did not handle the disc harrows of the International Harvester Company? A. No, sir.

Q. Now none of these implements you have mentioned are implements you got from the International Harvester Company of America at all? A. No, sir.

Q. Have you ever handled any of these implements that were bought from them, have you ever handled any of these before? A. No, sir.

Q. That you purchased from the International Harvester Company of America? A. No, sir.

Q. You think your business on the implements that you have just mentioned amounts to three-fourths of your implement business? A. Yes, sir.

Q. Do you know how many of the implements you have mentioned are made by the International Harvester Company of America? A. Well disc harrows are.

Q. What else? A. Wagons, that is about all that I handle, I did not mention peg tooth harrows or five-tooth cultivators.

(Witness excused).

ANDREW S. MOORE, of lawful age, being duly sworn upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. State your name? A. Andrew S. Moore.

Q. You live in King City? A. Yes, sir; Gentry county.

Q. How far is King City from here, how far is it from here to Kansas City? A. 158 miles to Kansas City.

Q. How far from Kansas City to King City? A. 94 miles.

Q. How long have you been in the business of selling cultivators, implements, tools and machinery? A. Lacking about six years, 22 years.

Q. When did the six years lack? A. We started in in 1902 the last time; we bought the firm out in 1902 and started out; I worked for the firm and had an interest for 26 years.

Q. You have been ———? A. Directly and indirectly 26 or 27 years.

Q. That is you have been in business for yourself since 1902? A. Yes, sir.

Q. The last six years? A. Yes, sir.

Q. You were working for the same concern you bought out for a number of years before? A. Yes, sir.

Q. For how long? A. About 20 or 21 years.

Q. Was your connection with that firm prior to 1902 sufficient to give you familiarity with the prices and the condition of the machines and the conduct of the business of the agricultural implements you handled? A. No, sir; I had charge of the hardware department, I did not handle the implements much to speak of.

Q. Prior to 1902 you don't know anything about the agricultural machine? A. No, sir.

Q. Were you familiar with the general conduct of the business in the store? A. Yes, sir.

Q. Prior to 1902 was there any dictation of the prices you should sell to the farmer? A. Yes, sir; it was in their contracts.

Q. What machines? A. Deering and McCormick both.

Q. What was the practice in regard to that, was it sometimes enforced? A. We made them scratch it out before we signed the contract.

Q. They had it in the contract? A. Yes, sir.

Q. Did they try to enforce it? A. Yes, sir.

Q. But you generally made them take it out before you signed the contract? A. Yes, sir.

Q. How about since 1902, since you have been in this for yourself, has there been any restriction as to what you should sell to the farmer for? A. For 1902 or 1903 I could not say.

Q. Since 1903? A. There has been an absence of that in the contract.

Q. Has there been any increase of price until 1908, from 1903? A. No, sir.

Q. The increase was for 1908? A. Yes, sir.

Q. Was there ever any general agencies at St. Joe for the sale of machines you handled prior to the formation of the International Harvester Company? A. There was for the McCormick.

Q. When was the McCormick general agency there? A. Well I think ———

Q. A great many years ago? A. Yes, sir.

Q. How long has the present general agency been in St. Joe? A. Eight or nine years.

Q. Since you were under your own business? A. Yes, sir.

Q. Now before then, for six or eight or nine years was there any general agency? A. No, sir.

Q. That general agency, that is at St. Joe now facilitates the handling of all machines in your territory? A. Yes, sir.

Q. How? A. We can order repairs that morning and get them that evening. It used to be ———

Q. How did it used to be? A. It would take 24 or 48 hours to get repairs or if we wanted any help it would take 24 hours.

Q. Is there any difference in the handling of repairs than before? A. I cannot see much, we have less breakage than before.

Q. You have them delivered lots quicker? A. Yes, sir.

Q. You still handle them on commission? A. Yes, sir.

Q. You always did? A. Yes, sir.

Q. How about the machines themselves since 1902 as compared with now? A. There has been a big advantage.

Q. On what? A. On the Deering and Milwaukee, not as much on the Milwaukee as the Deering.

Q. How? A. It is lighter, lighter draft, and the Knotter is better and several changes, I cannot explain, which made the machine a whole lot better.

Q. How far do you live from St. Joe? A. Thirty-two miles.

Q. In your general territory is the Acme sold? A. No, sir.

Q. Is it sold in St. Joe? A. Yes, sir; I think so.

Q. And the Johnston? A. I don't know.

Q. And the Wood? A. Not sold, no, sir; around there.



Q. What business did you do? A. \$22,000.00. Bethany is my other place and the business I have, two places.

Q. In the aggregate you do about \$40,000 a year? A. Yes, sir.

Q. Of that proportionate part what is represented by the sale of the goods of the International Harvester Company of America per year? A. I could not say as to that, somewhere in the neighborhood of \$10,000.00 the two places.

Q. A fourth? A. Yes, sir. Hardly one-fourth. About \$8,000.00.

Q. Not quite a fourth? A. No, sir.

Q. How much of your business in agricultural tools is represented by the sale of harvesters and binders? A. About \$3,500.00 to \$4,000.00 in both places.

#### CROSS-EXAMINATION.

By Hon. James T. Blair:

Q. In 1902 you say you first entered into the business for yourself? A. Yes, sir; that is the company of ours.

Q. In 1902 what machines and binders were being sold in your town? A. Deering, Milwaukee, McCormick.

Q. Do you know what machines are being sold in Bethany? A. No, sir; we bought them out a year ago, I was not acquainted in Bethany at all.

Q. Now in your location there is not very close competition there. Union Star is not very close? A. It is about six miles of us. Pretty close competition.

Q. Well now what machines are now being sold in King City? A. The Deering, Milwaukee and McCormick in binders.

Q. What competition have you at Union Star in machines excepting the International Harvester Company of America machines? A. I could not say, I do not know.

Q. Have you any competition at Albany with any other machines? A. I think the Acme is handled there.

Q. What about your competition in other directions at Maysville? A. I do not think anything is handled there except the International Harvester Company.

Q. What per cent of the business in the territory in which you sell in the binder business is done by the International Harvester Company of America? A. On binders, I expect one hundred per cent.

Q. Practically all of it? A. Yes, sir.

Q. In 1902 what mowers were being sold in King City? A. The Deering, McCormick, Milwaukee and Standard and the Buckeye and I think a few Champions were sold.

Q. Now what per cent of the mower business at that time was done by the Deering, McCormick, Champion, these companies? A. I expect 80 per cent.

Q. What per cent of the binder business at Bethany now is done by the International Harvester Company of America? A. All of it.

Q. What per cent of the mower business at Bethany and that vicinity is done by the International Harvester Company of America?

A. I expect 80 per cent is done by the International Harvester Company of America.

Q. I believe you stated 80 per cent at King City is done by the International Harvester Company of America? A. Yes, sir; I expect more than that.

Q. How do the repairs furnished you now compare in prices with similar repairs furnished you in 1902 and prior to that? A. I could not tell you, the prices prior to that, my brother was alive then, I had nothing to do with them, he attended to them.

Q. You had nothing to do with them? A. No, sir.

Q. Do you know whether they have increased since 1902? A. No, sir; I think some have come down quite a great deal.

Q. Well what repairs have been reduced in prices? A. Ledger plates, sections, sickles.

Q. Now what is the difference in character between these repairs you mentioned now and those you mentioned that were formerly higher in price? A. They are as fully as good.

Q. I understand, but how as to the size and the construction? A. The same I think.

Q. The principal improvements in the harvesting machines of the International Harvester Company of America since 1902 has been in the reduction of the size of the parts and the elimination of certain parts that were admitted unnecessary? A. Yes, sir; taken out parts and putting in better material in the binders.

Q. In what does that better material consist in metal or wood parts? A. In metal, malleable iron instead of cast.

Q. To what extent does that consist? Was there no malleable iron before? A. Yes, sir; a few, but very few.

Q. Do you handle the wagons of the International Harvester Company of America? A. No, sir.

Q. Are they handled in your town? A. No, sir.

Q. You do not handle them either at Bethany or Kingston? A. No, sir.

Q. Are they handled by other dealers at Kingston? A. Yes, sir.

Q. What is the price of the wagons you handle? And those of the International Harvester Company of America? A. I don't know. They sell for the same I think, I have not paid any attention to them.

Q. The Weber wagon is on the market at a lower price than any other Standard wagon? A. They are selling them cheaper than they are the other Standard wagons at retail.

Q. The price to you of the binders and mowers is a fixed amount, they are sold to you at the same price, all of you, regardless of competition? A. Yes, sir.

Q. Whatever cuts you make in competition you make on your own part? A. Yes, sir; on my own responsibility.

Q. Now do you handle any other goods besides the binders and mowers of the International Harvester Company of America? A. Sweep rakes, engines, disc harrows, and a number of their peg tooth harrows and stackers.

Q. Are there a number of other implements of the same kind you

just enumerated on hand in Bethany and King City of other makes?

A. Yes, sir.

Q. What about the prices of these other implements sold you?

A. Some are higher than they were years ago.

Q. I have reference to this character of tools you just enumerated?

A. The disc harrows are about the same price as they have been for a number of years.

Q. How do they compare in price with other Standard harrows offered on the market at King City and Bethany? A. They are a little bit cheaper than some of them.

Q. Is the price cut in any instance to meet competition of other makes by the International Harvester Company of America? A. By the International, you mean? No, sir; not to us anyhow.

Q. These repairs which you mentioned as having been reduced in price, they are repairs of a general character that can be bought from other houses than from the International Harvester Company of America for their machines? A. Yes, sir.

(Witness excused).

HUGH STANTON, of lawful age, being duly sworn upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. State your name? A. Hugh Stanton.

Q. You live at Union Star? A. Yes, sir.

Q. How far is it from here? A. 232 miles.

Q. How far are you from St. Joseph? A. Twenty-five miles.

Q. What effect in the way of efficiency has the general agency of the International Harvester Company of America there at St. Joseph been to the farmers and agents? A. It has been good for us.

Q. How? A. We can get repairs quicker and we can telephone down there of a morning and get repairs back at 11 o'clock.

Q. Where did you used to get them? A. Kansas City.

Q. How long ago has that been established? A. Eight years.

Q. Since 1903? A. Yes, sir.

Q. Who fixes the price at which you sell goods to the farmer?

A. I fix that myself.

Q. Did you ever try to get the general agency at St. Joseph to fix them? A. Yes, sir. I asked him to and he would not do it.

Q. Has anybody had anything to say as to how much you should charge the farmer? A. No, sir.

Q. How long have you been in business? A. Fourteen years.

Q. Do you notice any difference in machines now and in 1903?

A. Yes, sir; there is a difference.

Q. What is the difference? A. There are a heap simpler, they took off some parts and put on some parts and they are more simple. You take a binder head, the parts they are about half as many as there

used to be to do the work; they do the work easier and they wear better and do not call for as many repairs as they used to.

Q. Do you remember the exclusive clause in your contracts? A. Yes, sir.

Q. That has not been in since 1903? A. No, sir.

Q. Prior to 1903 did they try to enforce that? A. Yes, sir; they tried to, that was when they used to agree not to handle other machines before 1903. I was handling the McCormick and they asked me not to handle any other machines, we had several mix ups.

Q. Since 1903 you have had no trouble? A. No, sir.

Q. No complaints in regard to it? A. No, sir.

Q. Has there been any increase since 1903 between 1903 and 1907, to the season of 1908 on binders and mowers? A. No, sir.

Q. Take other farm implements and machinery during these years, what has been the increase in price? A. There has been some advance on some, not much, and others a great advance, I think it would average nine to ten per cent.

Q. How much of a stock of goods do you handle? A. It invoiced in the spring about \$25,000.00.

Q. How much of a stock of goods do you handle in agricultural tools and machinery during the year? A. \$15,000.00 to \$20,000.00 during the year.

Q. What per cent is that of the goods dealt in by the International Harvester Company of America? A. About \$3,500.00.

Q. What per cent is represented by the sale of harvesters and binders? A. I think about \$2,000.00.

#### CROSS-EXAMINATION.

By Hon. James T. Blair:

Q. You were in business in 1901 and 1902? Were you not? A. Yes, sir.

Q. Well in those years what other machines besides the International Harvester Company of America were on sale or offered for sale at Union Star? A. The Champion, Osborne and the Standard.

Q. I have reference to binders? A. The Champion, Osborne and Deering and McCormick.

Q. Now in 1902 was the Osborne machine being sold at Union Star? A. Yes, sir.

Q. Were you handling it? A. No, sir.

Q. Now at the present time what binders are being sold at Union Star? A. Just the McCormick.

Q. And that only? A. Yes, sir.

Q. Are you the only agent for binders at Union Star? A. Yes, sir.

Q. How many agents were there in 1902 at Union Star? A. Three I think.

Q. In 1902 were there any agents near you at Parksdale? A. Yes, sir.

Q. And in Andrew county? A. Yes, sir.

Q. Are there other agents at these first two towns now? A. Yes, sir.

Q. Is the McCormick binder sold at either of them? A. The closest agent is at Helena and the McCormick is not sold there.

Q. Now in 1901 and 1902 what mowers were being sold in Union Star? A. The Osborne, the Standard, the Champion, McCormick and Deering.

Q. What per cent of the mower business in 1902, if you know, was done by the Standard people? A. Very little, tolerably, 90 or 95 per cent of the business was done by the International Harvester Company of America, yes, sir.

Q. You said there were several agents in 1902? A. Yes, sir.

Q. Are there any other agents in Union Star handling mowers besides you? A. No, sir.

Q. What mowers are you handling now? A. The McCormick.

Q. Then at the present time the binder and mower business all of it, at Union Star, is done by the International Harvester Company of America and by you? A. Yes, sir.

Q. Well, the machine, the six-foot binder now, is much smaller and lighter and more compact than in 1902? A. Yes, sir.

Q. What does it weigh now compared with its weight then? A. It weighs considerably less, I expect 150 or 200 pounds less than then, I do not remember the weight then.

Q. That reduction in weight has been due in a large part to elimination? A. Yes, sir; taking the parts they did not need when they knew how to assemble it.

(Witness excused).

GUY COLEMAN, of lawful age, being duly sworn upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. State your name? A. Guy Coleman.

Q. Where do you live? A. Platte City, Mo.

Q. How far is it from here? A. I do not believe I know exactly.

Q. How far is it from Kansas City? A. Thirty miles.

Q. Kansas City is 158 miles from here? A. Yes, sir.

Q. Mr. Coleman how long have you been in the business of handling agricultural implements, tools and machinery? A. Since 1902, July.

Q. And before then what were you doing? A. I was with my father, my father run the business then.

Q. That is the same line of business? A. Yes, sir.

Q. Before 1902 you were in the same line of business as now? A. Yes, sir.

Q. And since then you are running it yourself? A. Yes, sir.

Q. Before 1902 were you familiar with the general line of busi-

ness and prices? A. One year only, one year from March, 1901, to March, 1902, I run it.

Q. Well from March, 1901, to March, to the present time, you are familiar with the line? A. Yes, sir.

Q. Since 1903, has there been any exclusive agency clause in the contracts you have with the International Harvester Company of America? A. Yes, sir.

Q. For how long? A. I do not remember how long.

Q. It was discontinued how many years ago? A. About three years ago.

Q. Since 1903 has that exclusive agency clause ever been in force? A. No, sir.

Q. You handle what independent machines you like? A. Yes, sir.

Q. What machines have you handled? A. I have only handled the Deering binder.

Q. And mowers? A. I handled the Standard and Deering.

Q. Only the Standard? A. Yes, sir.

Q. Dane? A. No, sir.

Q. Was there any objection to your handling the Standard? A. No, sir.

Q. Have you been solicited to take other binders and mowers? A. Yes, sir.

Q. What? A. The Acme.

Q. Any others? A. No, sir.

Q. When? A. Five or six years ago.

Q. Why did you not take it? A. I did not want it, it had never been sold there and it would have to be introduced, I always had a good sale with the Deering. It gave satisfaction, I saw no use in changing.

Q. In the prices of the harvester line of goods, from the season of 1903 to 1908, was there any increase in prices? A. No, sir.

Q. How about the price of other tools and machinery? A. The price advanced on almost everything.

Q. How much in per cent? A. Well they advanced from 2½ to 10 per cent.

Q. How about wagons? A. Wagons advanced.

Q. How much in per cent? A. I don't know the per cent exactly.

Q. Do you remember what you paid for wagons in 1903? A. No, sir. I do not remember. We used to pay \$63.00 for wagons that cost us \$78.00 now.

Q. How long ago was that \$63.00 price? A. It has been about 6 or 7 years.

Q. What wagon is that? A. The Schuttler.

Q. What is the total amount of your business in tools, implements and machinery on the average in dollars a year? A. My entire business \$25,000.00 the implement business. It will run 75 per cent of that.

Q. \$17,000 or \$18,000 of that? A. Yes, sir.

Q. Now of that total implement, agricultural, tools and machine

business, what proportion is represented by the goods of the International Harvester Company of America sold? A. \$1,800.00 or \$2,000.00.

Q. What proportion is represented by the line of harvesters and mowers? A. I suppose two-thirds of that.

Q. That is \$1,200.00 or \$1,400.00? A. Yes, sir.

Q. That includes the binders and mowers you handle in your territory? A. Yes, sir.

Q. Take repairs on harvesting line, do you handle them? A. Yes, sir.

Q. How? A. On commission.

Q. Do you handle repairs on plows? A. No, sir.

Q. Why? A. The company does not carry them for us.

Q. You mean you have to buy them? A. Yes, sir; you have to buy them and pay for them at once.

Q. When you want repairs on plows you send for them at once?

A. Yes, sir; we charge the farmer, pay for the express and telephoning if there is any.

Q. When you want repairs on harvesters and mowers, what do you do? A. We make out an order in the spring and keep them on consignment.

Q. You keep them on hand? A. Yes, sir; until about October, they are invoiced and we pay for what we have sold.

Q. Is there any limit on the amount of repairs you carry in your territory? A. No, sir.

Q. You fix what you think the farmer will need? A. Yes, sir.

Q. What commission do you get on repairs? A. Thirty per cent.

Q. What did it used to be? A. 25 per cent.

Q. Do you remember when the change was made? A. Yes I believe it was in 1908, I would not be positive.

Q. Is the Acme handled in your territory? A. No, sir.

Q. Is it not handled at Weston? A. Yes, sir.

Q. How far is it from you? A. Five miles.

Q. Is it not there in your territory? A. No, sir.

Q. Is the Dane handled in your territory? A. Not as I know of.

Q. What is the general character of the harvester business in your territory since 1903, so far as the farmer is concerned? A. I do not understand exactly.

Q. I mean as effecting the machine? A. The machines work better, they are better than they used to be, they give us lots less trouble.

Q. What is the opinion of the farmer of them? A. They are all satisfied, I have no complaint from them.

#### CROSS-EXAMINATION.

By Hon. James T. Blair:

Q. What binders were sold in Platte City and the vicinity in 1901 and 1902? Has there been, that has been introduced and established and was being sold there at that time? A. The Deering and



McCormick and the Milwaukee and the Minneapolis was sold there then.

Q. Who handled that? A. That was handled by Mr. Turner at Tracey, that is a little town one-half mile from Platte City.

Q. What amount of business was done by the first three machines? What per cent of the business did the Minneapolis machine do? A. Very small; did not sell but very few machines.

Q. Ninety or ninety-five per cent of the business was done by the other machines you handled in 1901 and 1902? A. Yes, sir.

Q. Is that the machine known as the Minnie binder? A. I don't know.

Q. How many years was it handled there? A. I think three or four.

Q. What years were they? A. 1889 and 1888, I mean 1898 and 1899 and probably 1897 and 1896, along there somewhere.

Q. Then it was not being sold there in 1901 and 1902? A. It may have been in 1901, but not 1902.

Q. The only machines you mentioned were the only machines sold in your vicinity in 1901 and 1902? A. Yes, sir.

Q. What other mowers were established there then? A. About the same mowers the Champion and the Deering. The Champion was the big seller.

Q. Practically all the mower business was done by the Deering, Champion and McCormick mowers? A. Yes, sir.

Q. Now you say there are no binders being sold in Platte City and vicinity except at Weston, excepting the International Harvester Company binders? A. Yes, sir.

Q. What per cent of the mower business is done there with the International Harvester Company of America machine? A. At Platte City?

Q. Yes, sir; and vicinity? A. Well practically, well now lets see about three-fourths I would say.

Q. What other machines are handled in Platte City? A. The Standard.

Q. Who handles it? A. I do.

Q. What other mowers do you handle? A. The Deering.

Q. You are the only parties that handle the Standard? A. Yes, sir.

Q. And the Standard is the only other machine other than the International Harvester Company of America machines that are handled in your town? A. Yes, sir.

Q. How many Standards did you sell last year? A. Six.

Q. How many mowers were sold in Platte City and Tracy last year? A. I don't know.

Q. Would you say twenty-four was about all? A. Yes, sir; about twenty-four.

Q. How does the price of the Standard mower compare with the price of the International Harvester Company of America mower machines? A. It is higher.

Q. The price to you? A. Yes, sir.

Q. It is higher? A. Yes, sir.

Q. What is the price? A. The price is \$36.00 on a five-foot machine.

Q. What is it on a five-foot Deering? A. \$35.81 I believe.

Q. How many agents were there in Platte City in 1902 handling binders? A. Two.

Q. How many handling mowers? A. Two.

Q. And you have the same number now? A. Yes, sir.

Q. You stated you were offered the agency for the Acme machine and rejected it? A. Yes, sir.

Q. How long ago was that? A. Six years ago, somewhere along there.

Q. The Acme is not sold in your immediate territory? A. No, sir.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Do you know the Minnie machine? A. No, sir.

Q. You do not know anything about that? A. No, sir.  
(Witness excused).

Hon. Theodore Brace, Commissioner:

A recess will be taken at this time until 1:30 p. m.

Afternoon session, 1:30 p. m.

CHARLES HAYDEN, of lawful age, being duly sworn upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is Charles Hayden? A. Yes, sir.

Q. You live at Windsor? A. Yes, sir.

Q. How far is it from here? A. I judge about 85 miles, 63 from here to Sedalia, and we are 21 miles from Sedalia.

Q. It is at least 85 miles? A. Yes, sir.

Q. How long have you been handling agricultural implements? A. Sixteen years.

Q. Take the harvester line Mr. Hayden between 1903 and 1907 what machines did you handle? A. I handled the McCormick binder.

Q. The binder? A. Yes, sir.

Q. Any others? A. No other machines but the McCormick line up to that time.

Q. And mowers? A. Yes, sir.

Q. Was there any increase of price in the binders and mowers between 1903 and 1907? A. I think not.

Q. Take other farm machinery, implements and tools outside of the harvester line, what has been true of the prices on these? A. They have advanced from five to thirty-three and one-third per cent.

Q. What has been the average? A. 12½ per cent I would judge.

Q. What does your annual sales amount to? A. \$35,000.00.

Q. What did your annual sales amount to in farm implements, tools and machinery? A. I judge \$6,000.00.

Q. In the different kinds of farm implements, tools and machinery, you sell annually \$6,000.00 worth? A. Yes, sir.

Q. What proportion of that is represented by the goods which the International Harvester Company of America sells? A. I would judge about 60 per cent any way.

Q. About \$3,600.00? A. Yes, sir.

Q. And what per cent would be represented by the harvesters and mowers? A. Something like \$2,200.00 I judge, \$2,000.00 to \$2,200.00 I judge.

Q. Mr. Hayden what other harvesters are sold in your neighborhood? A. Well we have the Acme and Johnston.

Q. Where is the Acme sold? A. In our town.

Q. In your town Windsor? A. Yes, sir.

Q. And the Johnston? A. At Sedalia and Calhoun, a town eight miles from ours.

Q. What other binders are sold besides the McCormick and Deering? A. The Milwaukee and Osborne.

Q. What mowers are sold? A. The Dane and Standard and Deering, Champion and McCormick.

Q. Do you handle any other goods besides or except the goods manufactured by the International Harvester Company of America? A. Not in the harvesting machine line.

Q. Is there any exclusive agency contract in force in your territory? A. No, sir.

Q. You can handle anything you want to? A. Yes, sir.

Q. Have you been solicited by outside concerns to handle their business? A. Yes, sir.

Q. Which one? A. The Acme and Johnston.

Q. Why did you not handle them? A. They were new and we had a trade worked up on them and we did not want to work up a trade on these others.

Q. How about repairs, both as regards prices and efficiency in the years 1907 and 1908 as compared with 1903? A. There has been I think the prices are about the same and ———

Q. I am talking about repairs? A. The repairs, the prices on them have been about the same and the efficiency I think they give better satisfaction than in former years.

Q. Why? A. We do not have as many calls for repairs on the machines we sell as we did formerly.

Q. You handle these repairs on what basis? A. On consignment, on a commission basis.

Q. The repairs that are most used and used by the farmers are handled on what basis? A. In the last year or two we have been buying straight out most of the goods from the company, we would sell most rapidly such as sickle heads and sections, we bought straight out and paid for them.

Q. You have the privilege of buying on a commission or straight out? A. Yes, sir.

Q. If you buy them on a commission you get what? A. Thirty per cent.

Q. If you buy straight out, how? A. We get a little better than that.

Q. If you bought on commission are you limited on them? A. No, sir; we get as many as we want to.

Q. They are carried over from year to year for you? A. Yes, sir.

Q. You do not have to pay for them until sold? A. No, sir.

Q. Is there any dictation to you as to the prices you should sell to the farmer? A. No, sir; we fix our own price.

Q. How was it before 1903? A. I cannot see any difference in a retail way.

Q. Do you have any dictation in the way of prices as to the retail price? A. No, sir; in one year it was suggested that we get a certain price but no attention was paid to it by us or competing agents.

Q. Is there any advantage to the farmers in handling repairs on a commission? A. We handle more than if we had to buy straight out for them.

Q. Can you give us any idea as to the per cent? A. In what respect?

Q. How much larger per cent do you handle because you carry them on a commission? A. I do not think we would carry over 25 per cent of what we do carry if we had to pay for them.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Prior to 1902 you were always able to get all the repairs you wanted on commission? A. Yes, sir; we were always able to get all we wanted on commission.

Q. There has been no change since 1902? A. No, sir.

Q. You say you bought outright a great many of your repairs? A. Yes, sir.

Q. You sold these repairs at the prices listed by the company? A. Yes, sir; we did.

Q. Regardless of whether you bought them outright or bought them on a commission? A. Yes, sir.

Q. These prices are not fixed by you, they are fixed by the company? A. Yes, sir; they are fixed.

Q. The list is given you of every part of the machine and the price is set beside that part? A. Yes, sir; it is.

Q. And you sell according to that price? A. Yes, sir; according to the list.

Q. And never vary from it? A. No, sir.

Q. Now what machine is it you handle? A. The McCormick and Deering.

Q. What binders did you handle prior to 1902? A. McCormick only.

Q. What other machines besides the McCormick were handled at your town prior to 1902 and including 1902 of binders? A. The Champion, Osborne, Milwaukee, Plano, McCormick and Deering.

Q. Those were the only binders sold in your town and community? A. Surrounding territory, yes, sir.

Q. In the territory over which you sold? A. Yes, sir.

Q. How about mowers, what machines were sold before 1902 and inclusive of 1902? A. We have had all these companies' mowers we spoke of having the harvesters and the Standard and Dane I think, the Standard has been there a number of years.

Q. Did you have the Dane before 1902? A. I am not positive, we had it for competition a number of years.

Q. Are you sure you had the Standard prior to 1902? A. I am pretty positive of that fact, yes, sir.

Q. They do not make a binder? A. No, sir.

Q. In the year 1902 and years prior to that these six companies, Milwaukee, Champion, Plano, Osborne, McCormick and Deering, five are selling all of the binders sold in your territory? A. Well all of them was sold from our town.

Q. Have you any knowledge of any other binder being sold in that territory outside of these five machines? A. There was a machine sold that tied with hemp grass, it was no good, it did not give satisfaction, I do not remember the name.

Q. Was the Wood binder sold? A. Yes, sir.

Q. How many were sold? A. I think some three were sold.

Q. In 1902? A. When it comes to the year I cannot tell the year, we did not handle them.

Q. You don't know whether that was before or after 1902? A. It is my opinion to the best of my knowledge and belief it was since then.

Q. Since 1902? A. Yes, sir.

Q. Then in 1902 and several years prior to that time these five machines did practically all the binder business in your community? A. Yes, sir; they did.

Q. And what part or per cent of the mower business did these five companies do in your community in 1902, and for two or three years prior to that time? A. I think 80 per cent.

Q. Eighty per cent, don't you know as a matter of fact it was nearly up in 90 or 95 per cent on the mowers? A. No, sir; I do not.

Q. Do you mean that the Standard did, that there was as many Standards sold as there was of the Osborne or Champion or Milwaukee or Deering? A. The Standard has been the hardest competition of mowers of anything we have.

Q. What years are you talking about? A. The last ten or twelve years at least.

Q. How many Standards were sold in that community last year? A. I think the agent told me he sold seven.

Q. How many did you sell? A. Twenty-four.

Q. Twenty-four of what makes? A. McCormick and Deering.

Q. Well how many of the other makes did the International Harvester Company of America sell in your community? A. I think there were only five.

Q. Outside of the McCormick and Deering? A. Five.

Q. You are satisfied then that there were in 1902 and prior to that time the companies now composing the International Harvester Company of America that they did at least 80 per cent of the mower business in your community? A. Yes, sir.

Q. What per cent of the binder business does the machines represented by the International Harvester Company of America in the way of binders now do in your community? A. Ninety-five per cent I judge.

Q. I believe you say the Acme is sold there? A. Yes, sir.

Q. And how about the mowers, what per cent? A. Well I judge there would be about some where from 80 to 90 per cent in the mower business.

Q. I believe you stated that the Acme people offered you their agency? A. Yes, sir.

Q. And you declined to accept it, you stated that your reason was you did not care to take a machine that you had to build up a trade in your community that had no standing or reputation in the community? A. Yes, sir; that is the idea.

Q. Well in 1902 there were no machines that had any standing and our reputation in your community but those represented by the International Harvester Company of America? A. Not as binders, no, sir.

Q. In fact it would be a very difficult thing for you to take the Acme machine in your community or the Johnston machine and compete with the machines manufactured by the International Harvester Company of America, would it not? A. Yes, sir; I do not think I would want it at all.

Q. You would not be able to stay in business very long if you tried it? A. No, I do not know about that, I do not think I could sell as many of them.

Q. Now you say that the prices on repairs has remained practically the same since 1902? A. Up to 1907 I believe or 1908.

Q. And was the prices on repairs increased in 1908? A. Yes, sir; some little.

Q. To what extent? A. Well they raised the list price on some of the repairs, take sections, they were increased from five to six cents a piece.

Q. From five to six cents a piece? A. Yes, sir.

Q. What other repairs did they make an increase of price in? A. Well I hardly know, not very much in anything.

Q. There would be an average increase on the repair list of from five to ten per cent, would there? A. I think five per cent would probably cover it.

Q. Did you state that all of the farm implements that you sell

are made by the International Harvester Company of America? A. No, sir; just the harvesters and mowers.

Q. What other farm implements do you handle? A. We handle plows, cultivators and corn planters and a full line of farm implements.

Q. Now the line you handle at this time and which you do not purchase from the International Harvester Company of America were not implements that were manufactured or sold before 1902 by the McCormick or the Deering or the Champion or the Plano or the Osborne Company? A. No, sir.

Q. They are lines that the International Harvester Company of America has taken up since that time? A. I did not quite understand your question at first.

Q. I say that the implements you handle now and which you do not buy from the International Harvester Company of America are implements of nature that were not manufactured or sold by the McCormick or Plano or Deering or Champion or Osborne Companies before 1902; they did not make these implements before 1902? A. I don't know about that, we never bought any tillage tools from the International Harvester people.

Q. Do you know when these companies were operating as independent companies, they did not manufacture and sell these tools? A. I think the Osborne people did.

Q. What did they manufacture? A. Disc and peg tooth harrows, I think they had on the market for a number of years.

Q. Did the McCormick Company? A. I don't know.

Q. Or the Deering people? A. No, sir.

Q. One is the only company that you can mention that did? A. That is all I know of.

Q. Well, the International Harvester Company of America does not make implements, that is, all the implements of the line that you handle, that is, the farm implements that you handle that the International Harvester Company of America does not make along that line? A. Sure.

Q. And giving this estimate of the amount of business that you did, not represented by the implements you purchased from the International Harvester Company of America, of course, you included in that also the line they did not manufacture? A. Yes, sir.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. That machine that you think was a grass-tying machine, somewhere about 1902, was that the Minnie? A. Yes, sir; I think that was it.

Q. It did not last long? A. No, sir.

Q. It did not give satisfaction? A. No, sir; they did not; we got to sell one and had to give one to take the place of it.

Q. On repairs you say you think that the prices of sections sometime in the last few years increased from five to six cents? A. Yes, sir.

Q. Did that apply in any companies sections except the McCor-



mick, I mean to say, was it for any machine except the McCormick? A. The McCormick and Deering, I think.

Q. You are not sure about the Deering? A. No, sir.

Q. You are not sure about it applying to any others? A. No, sir.

Q. Was there any additional discount allowed to agents at the same time? A. Yes, sir.

Q. Was the price to the agent any different? A. But very little.

Q. Now, at the same time, did not the price of sections on all the other machines come down from ten to six cents? A. I think so; I know we have sold them at ten cents.

Q. As far as you remember, the price of sections except the McCormick and perhaps the Deering, of which you are not very sure, decreased from ten cents to six cents, and the McCormick only put theirs up from five to six cents? A. Yes, sir.

Q. And there was added a discount to the retail dealers which made the prices about the same. A. Yes, sir; you are right about that.

Hon. Charles G. Revelle, counsel for Informant:

I think that line of examination is objectionable about him stating what that discount was.

Q. Do you remember what that discount was? A. 25 and we now get 30.

Q. Did you get any other repairs, that is, between 1903 and 1907, that were increased at all? A. I have not any in mind now; no, sir.

Q. As a matter of fact, what has been the course of repairs in regard to prices of repairs since 1893 till now? A. I think that on some things they have gone down and others they have advanced just a little.

Q. Do you know of any advance except for the McCormick sections from five to six cents? A. No, sir; I have not any in mind.

Q. Mr. Hayden, you handle tillage implements, do you not? A. Yes, sir.

Q. Do you handle the McCormick line of tillage implements? A. No, sir.

Q. You handle a line of tillage implements manufactured by what company? A. Jaynesville and Oliver.

Q. The tillage implements which you handle are those implements corresponding implements made by the International Harvester Company of America? A. Why some of them.

Q. Have they a corresponding line on those which you handle? A. On some lines they have; yes, sir.

Q. But you do not handle their lines? A. No, sir.

#### RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. What repairs have you in mind that there has been a reduction made in price? A. On sickles.

Q. What reduction has been made on the price of sickles? A. From \$3.75 to \$2.75.

Q. What else? A. And a corresponding reduction on all sizes of sickles.

Q. What else besides sickles? A. There has been a reduction on the Pitman boxes.

Q. How much? A. Sickle heads, we used to give fifty cents for sickle head and they run them down to 25 cents at one time.

Q. Are you speaking of the price now? A. I am in regard to the sickles; yes, sir.

Q. Confine yourself at this time to the present price. Outside of the sickles, tell me the articles that there has been a reduction and give the reduction? A. Take Pitman boxes, I have sold them for seventy-five cents and we sell them now at fifty cents.

Q. When did you sell them at 75 cents? A. In the last six or seven years.

Q. And now sell them at fifty cents? A. Yes, sir.

Q. And what else? A. Take sickle guards, they were formerly 75 cents, we sell them now for thirty cents.

Q. When was the sickle guard 75 cents on the McCormick machine? A. The last ten years.

Q. You mean to say that the sickle guard on the McCormick machine has sold since 1895 for 75 cents, the list price? A. To the best of my knowledge, yes, sir.

Q. Will you say they were selling for that in 1902? A. No, sir; I will not confine myself to any special year, I may be wrong about it.

Q. Has there been any reduction in price on these guards since 1902? A. I think there has; I am not sure about that.

Q. You are not sure? A. No, sir.

Q. Tell me some repair you know of? A. Well, there has been in these sickle heads, there has been a fall since 1902, I think, to the best of my knowledge and belief.

Q. Do you know there has been a reduction since 1902? A. I think so; yes, sir.

Q. You know that, do you? A. I know it as well as I know anything, not to be positive.

Q. What reduction has been since 1902? A. Well, a reduction from fifty cents.

Q. To what? A. Down to forty cents.

Q. What else do you know of? A. On Wood Pitmans for the mowers.

Q. How much? A. Reduced from 30 to 25, different lengths, they made different prices on.

Q. That is all you think of? A. Yes, sir; that is all I have in mind.

Q. How many parts of machines are listed as repairs in their repair book? A. I cannot tell.

Q. Can't you give us some idea? A. No, sir.

Q. Several hundred? A. Yes, sir.

Q. Out of several hundred you know of a reduction having been made on three or four or five repairs? A. Yes, sir.

Q. Did I understand you to say that the price of sections has been reduced on the Plano and the Osborne machines from ten cents to six cents since 1902? A. A. No, sir; that is the McCormick.

Q. On the McCormick section the price is increased? A. They taken it down and in 1908 they raised it one cent.

Q. I understood you to say in reply to a question asked you by Judge Spencer that the price of sections on the Plano and Champion and Osborne and possibly the Deering, had been reduced from ten cents to six cents, is that a fact? A. I was speaking about the McCormick all of the time and the Deering, I think, I was not positive.

Q. There never has been a reduction made from ten cents to six cents on the price of any section? A. Yes, sir; I think so.

Q. On what section? A. On the McCormick.

Q. I understood you to say the price on the section of the McCormick has been increased? A. I said there was a decrease, it has been in the last ten years.

Q. You don't know whether it has been since 1902 or not? A. I think it has been, I am not sure about it.

Q. Is that the retail or the price to you? A. That is the retail price.

Q. You never sold this section for six cents a piece? A. Yes, sir.

Q. You know nothing about the price on the section of the other machines outside of the McCormick? A. The McCormick and Deering, they are the same.

Q. Outside of them you know nothing about them? A. No, sir.

Q. Do you know what company makes that Standard mower? A. It is made by the Emmerson Manufacturing Company, I think.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. How about the repairs known as the wearing plates for harvesters and mowers? A. They have been reduced.

Q. How about ledger plates for harvesters and mowers? A. They are cheaper than they were formerly.

Q. How about Pitman plates? A. They have been reduced from ten cents to five cents.

Q. That has been in the last six or seven years? A. Yes, sir.

Q. You spoke of Pitman boxes? A. Yes, sir.

Q. How about Pitman boxes for Harvesters and mowers? A. On mowers they have been reduced.

Q. How about the binders? A. I am not sure about that.

Q. How about sickles for binders? A. They have been reduced.

Q. How about scythes for mowers? A. They have been reduced.

Q. How about scythe heads for mowers and harvesters? A. They have been reduced.

Q. How about guards for binders and mowers? A. They are cheaper.

Q. Do you think of others yourself? A. No, sir.

Q. You cannot think of any increase in the last six years except the increase from five to six cents in McCormick sections? A. Yes, sir; that is correct.

## RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. What has been the reduction on wearing plates? A. From twenty to fifteen cents, I think.

Q. What has been the reduction on the Ledger plate? A. From five to four.

Q. And on the Pitman bolts? A. From ten to five.

Q. And on the Pitmans on the mowers? A. From 50 cents to 35, and the shorter ones to 25; I am not sure whether the shorter one was as much as 50 cents or not.

Q. Do you know what the reduction has been on the guards since 1902? A. I think from 50 to 30 cents.

Q. Well, now, some of these repairs you say has been reduced in price are made by companies other than the International Harvester Company of America and which can be used on these machines.

A. Well, I suppose they are; yes, sir.

Q. In fact, you don't know of any instance where the International Harvester Company of America has made a reduction on a repair that is made solely and exclusively by them? A. Well, now, I don't know about that.

Q. Well, now, on these repairs you spoke of having been reduced in price, has there been any change made in the general character and nature of the repairs, have they been reduced in size or material? A. Why, not very much, if any.

Q. Have they any? A. None of those pieces I have enumerated.

Q. Have the guards? A. They are the same as usual, as well as I recollect.

Q. You will say that the material is the same in size, the same as they were? A. I think if any changes were made they are for the better; they are better than they formerly were.

Q. If you do not know there is any change in the material, how do you know that? A. By the demand we have for repairs that we furnish the farmers.

Q. You mean you have a greater demand? A. No, sir; we do not furnish as many free repairs as we did in former years.

Q. Do you furnish as many at which they pay you as you did in former years? A. No, sir; I do not think so.

Q. Are you selling as many machines as you did in former years? A. Yes, sir; you take the volume of business, it is the same one year with the other.

## RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. As a matter of fact the wearing plates on the mowers are larger than they used to be at a higher price? A. I am not sure about that.

(Witness excused.)

E. R. McMAHON, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the Respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. State your name? A. E. R. McMahon.

Q. You live at Fairfax, Mo.? A. Yes, sir.

Q. How far is it from Jefferson City? A. 290 miles from Jefferson City by rail.

Q. How long have you been selling, been dealing in agricultural tools and machinery? A. About twelve years.

Q. What harvesters do you handle now? A. We make contracts for the McCormick, but we sell the McCormick, Deering and Milwaukee.

Q. What mowers do you handle? A. We handle the McCormick, Deering, and that is, we buy the McCormick and the Standard if the farmer wants a Deering or Milwaukee mower, we get it for him.

Q. What other mowers are handled in your community? A. I cannot say whether there are any outside of the International Harvester Company of America or not; I understand there is an Acme agency at Corning, Mo., about 6 miles from my town.

Q. What is the competition at your town in the harvesters and mowers? A. The competition I have none on agricultural tools on the same line of machines.

Q. How near are your competitors to you? A. From ten to twenty miles.

Q. What kind of competition is it? A. We have some dealers that will occasionally cut the price, and we have some dealers that will slip in kind a close to us through courtesy we kind a draw the line and occasionally the dealer will get anxious for business and come closer to us and occasionally he will cut the price.

Q. Do you remember when the general agency for the International Harvester Company of America was established at St. Joe? A. I am not sure, I think 1903.

Q. Does it have any effect on the accessibility for the machines and repairs for the farmers in Northwest Missouri? A. Yes, sir; we can get goods quicker.

Q. Where did you get them before? A. Kansas City.

Q. How far are you from St. Joe? A. Sixty miles.

Q. Do you know what machines are handled at St. Joe? Is the Acme handled there? A. I don't know.

Q. And is the Johnston? A. I don't know.

Q. And the Woods? A. I don't know.

Q. Who fixes the prices at which you sell the machines to the farmers? A. We fix it ourselves.

Q. Has it always been the case? A. Yes, sir.

Q. You are the final arbiter at which you sell the machines? A. Yes, sir.

Q. Has there been any increase in the prices of the harvesters and mowers between 1903 and 1907 until for the season of 1908? A. I do not believe there has.

Q. During these years the prices remained the same? A. Yes, sir.

Q. How has been the price of tools, implements and machinery outside of harvesters and mowers between 1903 and 1907 and to 1908? A. Well, everything in that line has been gradually advancing, some goods more, and some less.

Q. What would you say would be the per cent., the aggregate advancement between 1903 and 1907? A. You mean the average, well on wagons the advance has been, I would judge, about 33 1-3 per cent.; plow goods from some manufacturers have advanced as much as 8 per cent. and some not more than three.

Q. Take farm implements, tools and machinery generally outside of harvesters and mowers, what would be the average advance? A. From 12 1/2 to 15 per cent.

Q. How much business do you do a year? A. In the agricultural and implement line?

Q. Yes, sir? A. About \$30,000.00.

Q. What per cent. of that is represented by goods of the International Harvester Company of America sold? A. Well, we usually have about \$2,500.00 worth of business with them.

Q. What per cent. of that total business would be represented by the harvester and mower business? A. From 16 to \$1,800.00.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Mr. McMahon, in 1902, what binders and mowers were sold in your community? A. In 1902?

Q. Yes? A. Well, the McCormick and Milwaukee, Deering and the Champion were sold there about that time. I don't know as to the exact year, and the Standard was also sold at a neighboring town.

Q. That is a mower? A. Yes, sir.

Q. Not a binder? A. No, sir.

Q. The Buckeye was sold about that time? A. I don't know exactly as to the date, that is all I can recall.

Q. Well, now in 1902 and for a year or two prior to that time, what proportionate part of the binder business in your community was done by the McCormick, Milwaukee, Deering and the Champion Companies? A. You mean the combination of all of these?

Q. Yes, sir? A. I suppose nine-tenths of the business was done by these machines.

Q. Do you think that the Buckeye did as much as one-tenth of the business in 1902 on the binders? A. The Buckeye for two years did quite a little business was about that.

Q. Was not that sometime prior to 1902? A. It might possibly have been, it might have been a year or two before that, it was about that time.

Q. What part of the mower business was done in your community by the McCormick, Milwaukee, Deering and the Champion Companies? A. Well, in our town the mower business run about the same as the binder business, possibly nine-tenths at Fairfax, the Standard sold as much as any one of the others.

Q. Was the Osborne handled there at this other town? A. I do not remember the Osborne has ever been handled there.

Q. At this time what part of the binder business is done by the various machines owned and sold by the International Harvester Company of America; you know what companies are in it? A. Of binders?

Q. Yes? A. Well you might say practically all of it.

Q. And how about mowers? A. Well, take our own case, we sold this year possibly 20 mowers, 8 of those were Standard mowers.

Q. Now, you are the sole binder agent there, are you not? A. Yes, sir.

Q. There are other mower agents at your place? A. No, sir; not at the present time there are other mower agents—

Q. There are other mower agents in that territory? A. What do you mean by territory?

Q. The territory in which you sell? A. Yes, sir; as I explained occasionally a dealer will come within two or three miles of our town and sell a machine, a dealer about 12 miles away from us.

Q. Do you know how many mowers, made by the International Harvester Company of America, were sold in your territory, counting the ones you sold and the ones your competitors sold? A. I could not give you the exact number, possibly 25 mowers.

Q. Well, your competition on the sale of both binders and mowers is solely that which you encounter with the agents, the other agents of the International Harvester Company of America, is it not? A. Not solely; no, sir.

Q. What other? A. We have the same competition with our neighboring dealers who handle the Standard mower.

Q. How many of these neighboring dealers handle the Standard? A. One at Corning and one at Fairfax.

Q. Do they sell any Standard mowers in your territory? A. Yes, sir.

Q. How many? A. One is all I can remember.

Q. You look upon them as your principal competitors in your territory, the other agents of the International Harvester Company of America, do you not? A. The other agents of the International Harvester Company of America and the agents of the Standard mower.

Q. You do not look upon the Standard mower the same as you do the other agents of the International Harvester Company of America? A. No, sir; they do not bother us as much. There are not as many used.

Q. There is no such a demand for them? A. No, sir.

Q. You stated that some of your competitors occasionally cut the price, did you ever do that on the International Harvester Company of America line? A. Yes, sir.

Q. How recently? A. I did that for the season of 1909 in some cases, if I have a customer who is a good customer, spends considerable money with me, well I will sell him this machine the same price I do with everybody else, but when he comes to settle with me on his entire account I will give him a concession in appreciation of his business.

Q. On his general business? A. Yes, sir.

Q. Do you throw him something? A. Yes, sir.



Q. You do not make a reduction in the price of the machine? A. No, sir; I don't know as I ever done that on a close deal, I have put something in with the machine, twine or something like that.

Q. Do you sell at the prices the Company suggests? A. They do not suggest any price to me.

Q. What price do you sell the six-foot binder? A. \$130.00.

Q. That is without the truck? A. Yes, sir.

Q. What do you mean by truck, the tongue truck. A. Yes, sir.

Q. Do you include the transport with that? A. Yes, sir.

Q. What is the regular price at which your competitor sells the same machine? A. Well, I could not say as to that, as to all of them, some of my competitors aim to get the same price, others I don't know as they do.

Q. In so far as you know, it is the usual rule that they all intend to get the same price? A. I cannot say that; no, sir.

Q. Do you know of a competitor you have that is making the standing price of their binder less than \$130.00? A. I only know in just taking the word of the farmers; I have not talked to the dealers about the prices.

Q. Do you mean to say that from general information you have competitors in your territory that are making the open standing price for less than \$130.00? A. I don't know of a standing price, I know from information I received from farmers that other dealers have offered the same machine for less money.

Q. That is the case where two of you are after the same customer? A. I don't know as the same customer. It is where they come to me and ask my price on the machine.

Q. Now, it does not matter what competition you encounter or however great or small the demand is for a machine you are selling that is made by the International Harvester Company of America, the International Harvester Company never makes a reduction in the price to you, does it, regardless of the competition and regardless of the demand for the machines whether great or small, the International Harvester Company of America never reduces the price to you? A. Why certainly not.

Q. Do you know what advance there has been made in the Weber wagons in the last three or four years? A. I do not; I have never handled the Weber wagons.

Q. Do you know what advance has been made in the price of any wagon made by the International Harvester Company of America? A. I never handled any wagon made by the International Harvester Company of America; I don't know that.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. You say, Mr. Mahon, you aim to get the same price for the harvesters and mowers from the same customer? A. Yes, sir.

Q. Except you have a rule where you have a real good customer? A. Yes, sir.

Q. Does that vary from the custom in your practice in wagons and other farm implements? A. No, sir.

Q. It is the same custom with all of them? A. Yes, sir.

(Witness excused.)

W. J. RUMPLE, of lawful age, being duly sworn upon his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

Hon. Selden P. Spencer:

Q. State your name? A. W. J. Rumble.

Q. You live at Weston, Missouri? A. Yes, sir.

Q. How far is that from here, Mr. Rumble? A. 90 miles, I think.

Q. How far? A. 90 miles.

Q. How long have you been in the business of selling to farmers agricultural implements, tools and machinery? A. Well, I have been in the general hardware business 23 years, but I have only handled implements since 1892.

Q. That is, you handled implements, you mean 1892? A. Yes, sir; I began with the harvesters in 1899.

Q. You have handled farm implements since 1892, and harvesters and mowers since 1899? A. Yes, sir.

Q. From 1899 to 1903 you handled what line? A. The Deering.

Q. Did you handle the mower and binder? A. Yes, sir.

Q. From 1903 to 1907, what did you handle? A. The Deering and Champion.

Q. Since 1907 what have you handled? A. From 1907 to 1908, and 1909 I handled the entire line.

Q. That is you have handled the Deering, the McCormick, Milwaukee and the Plano, Champion? A. Yes, sir.

Q. Both mowers? A. Yes, sir; I have the agency for them, I did not sell them all, if a man wanted them I could get them for him.

Q. What other harvesters and binders are sold in your territory? A. At present?

Q. Yes, sir? A. The Acme.

Q. What other lines of mowers? A. The Acme.

Q. Is the Standard sold there? A. No, sir.

Q. Or the Dane? A. No, sir.

Q. What line of tillage implements do you sell? A. The Deering and Kingman and Parlin and Orendorf.

Q. What has been the price of repairs and their accessibility in 1907 and 1908 as compared back to 1902 on mowers and binders? A. Take it in the prices it has been about the same.

Q. There has been no increase in prices? A. Yes, sir; there has been an increase in the list price and an increase in the discount which makes about the same.

Q. What has been the condition as to accessibility? A. I have not seen much difference.

Q. What is your total business per year? A. About \$35,000.00.

Q. What proportion of that is represented by the goods which the International Harvester Company of America sells? A. About \$5,000.00.

Q. What proportion of that total amount is represented by the business in harvesters and mowers? A. About \$2,200.00; something like that.

Q. \$2,200.00? A. Yes, sir.

Q. Has there been any increase in the price to you of harvesters and mowers from 1903 up to 1907 until for the season of 1908? A. No, sir.

Q. That is they remain the same up until 1907? A. Yes, sir.

Q. During these years what has been the course of prices in other machines outside of binders and mowers? A. There has been an increase.

Q. How much? A. From 5 to 33 1-3 per cent.

Q. What has been the average? A. I should judge from 12½ to 15 per cent.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Mr. Rumple, you say there has been an increase in the list price of repairs but also an increase to the agent of his commission? A. Yes, sir.

Q. Now, you sell the repairs to the farmers according to the increased list price, don't you? A. Yes, sir; not on everything; I did before in a good many things we added on to the list price, take a good many list prices, where the list price was from ten to fifteen cents on an article before, I would add on five cents in ordering it to pay for handling it, and on a small article I even did not add on as much as I used to, I stick more to the list price.

Q. You mean since 1902 you have been charging the farmer more on the list price than it was listed for? A. Yes, sir.

Q. You are still doing that? A. Yes, sir; but not as much as I used to.

Q. You had a contract each year with these companies when you were adding on these prices? A. Yes, sir.

Q. Your contract provides that you sell at the list price? A. I never paid any attention.

Q. You signed up the ordinary printed contract with the other companies which their agents brought around? A. Yes, sir.

Q. Well at all events if the repairs are sold according to the prices furnished by the company it is an increase to the farmer from what it used to be, is it not? A. Yes, sir; it would be an increase.

Q. Increased over their former list price? A. Yes, sir; provided it was sold at the list price.

Q. And you are now required by your contract to sell at the list price? A. No, sir.

Q. It is not in there? A. If it is I did not pay any attention to it.

Q. You get your repairs and sell them on a commission? A. Yes, sir.

Q. You do not buy them outright? A. No, sir; a few I did, most of them I get on commission.

Q. Now would you say there was as much as ten per cent increase on the list price of the repairs and a corresponding increase on the commission to the agent? A. Well I could not say, some of the repairs there has been no increase on and others a little more than that, I would not say ten per cent. Perhaps it would average between five and ten per cent.

Q. On the list? On the whole list? A. Well it possibly would.

Q. Of course the farmer gets no benefit of the increase given the agent on their commission does he? A. No, sir; he gets no benefit, sir; I think the repairs are pretty much the same.

Q. Well that cannot be the case if there has been an average increase of five to ten per cent? A. No, sir; with the extra discount.

Q. That extra discount goes to the agent though. What binders were sold in your agency in 1902? A. The Deering, Champion, Milwaukee, McCormick and the Plano, I think.

Q. The five just mentioned were all the binders sold in your community in 1902? A. Well now I believe the Buckeye had an agent there that sold one binder.

Q. What proportionate part of the binder business done in your community in 1902 was done by the Deering, Champion, the Milwaukee, the McCormick and the Plano combined? A. I think about 95 per cent.

Q. What per cent of the binder business done in your community now by the International Harvester Company of America? A. I imagine about 90 per cent.

Q. And what company does the other ten per cent? A. The Aeme.

Q. Well now what part of the mower business was done in your community in 1902 by the Deering, Champion, Milwaukee, McCormick and Plano? A. Well I think they did it all as near as I know; I don't know anything else that was sold.

Q. What part of the mower business does the International Harvester Company of America now do in your community? A. I think they do about 90 per cent.

Q. Before 1902 when the Deering, Champion, the Milwaukee, the McCormick and Plano and Osborne Companies were operating independently, they were not manufacturing and selling tillage implements were they? A. Not as I know of unless it was the Osborne; I never handled their machines.

Q. So far as you know the McCormick, Plano, Milwaukee and Champion which were operating in your community were doing an exclusive harvester and mower business? A. Yes, sir.

## RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Mr. Rumble the repairs that the farmers generally need that you find the most frequent calls for, has there been any increase in the price of those from 1903 to now? A. Well there are a few repairs, there has been a change in the list price.

Q. Tell me those that there has been a change in the list price? A. I cannot say.

Q. Can you name one single repair that is generally needed by the farmer that there has been an increase? A. No, sir.

Q. Has there been any change in scythes? A. No, sir.

Q. Or sickles? A. No, sir; there is a decrease in them.

Q. How about Pitmans? A. I think they have decreased.

Q. How about guards, both for mowers and binders? A. I think they decreased.

Q. How about sections? A. There is a decrease in sections.

Q. How about Pitman boxes? A. I could not say.

Q. Has there been any increase in them? A. No, sir.

Q. How about bolts? A. I could not say.

Q. Any increase in them? A. No, sir.

Q. How on Pitmans? A. I think there was a decrease in them.

Q. How about wearing plates? A. I could not say.

Q. Has there been any increase? A. No, sir; none that I know of.

Q. How about ledger plates? A. I think there has been a decrease.

Q. You cannot name a single repair that is generally called for by the farmer from 1902 that there has been any increase in price? A. No, sir; I cannot name the ones by number that there has been any increase.

## RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. If they were called over to you as Judge Spencer calls these, you might think of them?

Hon. Selden P. Spencer, Counsel for Respondent:

I suggest that he name them.

Q. On these repairs that you speak of being a decrease in price all of those are repairs that are made by others than the International Harvester Company of America? A. Some of them, not all of them.

Q. In fact these repairs, where there has been the greatest reduction in price has been repairs that are made by other companies, is that not true? A. Well some of them and some not.

(Witness excused).

FRED B. SHELLEY, of lawful age, being duly sworn upon his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is Fred B. Shelley? A. Yes, sir.

Q. You live in Nodaway county? A. Yes, sir.

Q. How far is Hopkins from here? A. 280 miles.

Q. How long have you been in the business of farm machinery and tools? A. Eighteen years.

Q. What machines do you handle now? A. Harvesting machines.

Q. Yes, sir? A. The Deering and also have the Acme.

Q. You have the Acme? A. Yes, sir.

Q. What mowers do you handle? A. The Acme, Deering and Dane.

Q. Do you remember when that general agency of the International Harvester Company was established at St. Joseph? A. Yes, sir; in 1903, I believe.

Q. Has it been of any benefit to your community in dealing in harvesting machinery? A. Yes, sir; it has been an advantage to us.

Q. How? A. It is closer, we can save time in getting repairs or getting machines.

Q. Mr. Shelley what has been the practice in regard to furnishing expert help and canvassers in the last five or six years as compared with the time before that? A. There is not much difference in that respect, always have had plenty of help.

Q. The same now as then? A. Yes, sir.

Q. What competition did you have in your community in the sale of harvesting machinery on binders and mowers? A. One of our competitors is the McCormick and we have the Milwaukee and Plano and Champion; I believe that is all the different machines represented.

Q. Do any of your competitors also handle other machines than those made by the International Harvester Company of America? A. I think not.

Q. You handle the Acme and the Dane? A. Yes, sir.

Q. What is your total business in dollars and cents? A. We do a general business from 25 to 30,000 dollars.

Q. What per cent of that is represented by the goods that the International Harvester Company of America sells? A. Only about five per cent.

Q. What per cent of your business is represented by business in the harvesters and mowers? A. About three-fourths of the total business, we do for the International Harvester Company of America between three and four per cent of our total business.

Q. About three or four per cent of your total business? A. Yes, sir.

Q. And the whole International Harvester Company of America business that you do in your territory is about five per cent of your business? A. Yes, sir; of the total.

Q. Was there any increase in the price of harvester machinery between 1903 and 1908? A. No, sir.

Q. None whatever? A. No, sir.

Q. What has been the course of prices of other farm implements during these years? A. They have increased in nearly all lines.

Q. Can you tell how much? A. Well they would vary from five per cent to thirty per cent on some.

Q. Could you give us any idea as to the average? A. I should think from 10 to 12½ per cent.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Do you handle wagons? A. Yes, sir.

Q. Do you handle Weber wagons? A. No, sir.

Q. Do you handle any of the International Harvester Company of America wagons? A. No, sir.

Q. You don't know how much they have increased their prices on wagons? A. No, sir.

Q. What is your average price on a six-foot binder? A. The price they get for their machines?

Q. Yes? A. Well we get from \$125.00 to \$130.00.

Q. I will ask you if you have a regular price that you quote the people generally? A. Well yes we try to have a regular price.

Q. What is that price? A. Our regular price would be \$130.00.

Q. What is your regular price on the Acme binder? A. \$130.00.

Q. The Dane does not make a binder? A. No, sir.

Q. What is the regular price that your competitor charges for the Deering or have you a competitor that sells the Deering? A. No, sir; we sell the Deering.

Q. What is the regular price that your competitor asks for the McCormick? A. I could not answer as to that, I do not think they have a regular price.

Q. How about the Milwaukee? A. I don't know as any of them have a regular price on any of these machines.

Q. Have you not heard of the prices they have quoted as their standing price? A. I have heard different prices quoted.

Q. You don't know whether they have a standing price on the Champion or not? A. No, sir; I do not.

Q. You say you sometimes cut the price on the Deering to \$125.00? A. Yes, sir.

Q. Did you sometimes cut the price on the Acme? A. We have not had much experience with the Acme machine, this is the first year we handled that.

Q. The fact is you did not sell but very few? A. No, sir.

Q. Did you sell any this year? A. No, sir.

Q. There is no other agent in your territory handling the Acme or Standard? A. No, sir; I think not at present.

Q. What part of the binder business that was done in your community in 1902 was done by the Deering, the McCormick, the Milwau-



kee, the Plano, the Champion and the Osborne combined? A. That is on binders?

Q. Yes? A. Nearly all of it.

Q. In fact all of it? A. Yes, sir; practically all of it.

Q. Were there any other binders sold there in 1902, except these?

A. The agency was there for the Aeme.

Q. In 1902? A. Yes, sir.

Q. You know of no sales that were made? A. I do not remember now of them making a sale.

Q. What would you say of the mower business done in 1902 by the companies I mentioned, the Deering, Milwaukee, McCormick, and the Champion and Osborne combined? A. They did 90 per cent of the business, I would say 85 or 90.

Q. What per cent of the binder business does the Milwaukee, McCormick, Champion, Plano and the Osborne combined now do in your community? A. Practically all of it.

Q. And on the mower business what part? A. Well they did 90 per cent of the business.

Q. Prior to 1902 did the Deering and the Milwaukee, the Plano or Champion manufacture and place upon the market tillage implements? A. I could not say positively but I think we have had Osborne machines in our town since that time and I think they sold Osborne disc harrows and peg harrows as long ago as 1902.

Q. Outside of the Osborne Company did the other companies manufacture and sell any others? A. No, sir; I think not.

Q. The Osborne people do not make wagons do they? A. No, sir.

Q. These other lines then in the way of tillage implements and wagons have been added to those companies since 1902? All you think, except the Osborne company? A. Yes, sir; I think so.

(Witness excused).

THOMAS H. GREGG, of lawful age being duly sworn upon his oath testifies as follows on behalf of the Respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is Thomas H. Gregg? A. Yes, sir.

Q. You live at Pleasant Hill? A. Yes, sir.

Q. How far is that from Jefferson City? A. About 130 miles.

Q. How many years Mr. Gregg have you handled agricultural —? A. About 12 years.

Q. When did you commence, do you remember, handling cultivators and agricultural implements? A. No, sir; I——

Q. Twelve years ago would be 1897? A. Yes, sir.

Q. About then? A. Yes, sir.

Q. Now Mr. Gregg, what lines did you handle up to last year?

A. I handled the McCormick line.

Q. Alone? A. Yes, sir.

Q. And did you handle the McCormick mower too? A. Yes, sir.

Q. Did you handle any tillage implements? A. Yes, sir.

Q. What lines? A. Buford and Yeargain, Kingman and Moore Implement Company.

Q. What wagons do you handle? A. I handle none.

Q. What cultivators? A. Kingman and Moore.

Q. Harrows? A. Yes, sir.

Q. What line? A. Kingman and Moore.

Q. Do you handle any cream separators? A. No, sir.

Q. Were there any objections to you handling these other lines?

A. No, sir; none whatever.

Q. Who fixes the price to sell to the farmer in your community?

A. I always fix my own price.

Q. As you compare from your recollection how are the prices and the accessibility of repairs on machines, how do they compare in 1903 and before and now and with 1907? A. There is very little change.

Q. Has there been any change in price? A. Yes, sir.

Q. Of what nature and what per cent? A. Well to tell you the actual change, there would be practically none from the fact that sections have advanced from five cents to six cents and Deering sections decreased from ten cents to six cents.

Q. When was that, do you remember? A. That was, I think, year before last, I would not be positive, I think it was year before last or two years ago.

Q. Are you able to mention any repair part that is generally called for by the farmer for which there is some general demand that there has been any increase in price since 1903? A. Yes, sir.

Q. What? A. The guard, there has been an increase of five cents per guard but our guards are made larger than they were.

Q. What is the price now? A. Thirty cents at the present time.

Q. That is both for the mower and binder? A. Yes, sir.

Q. When was the change made? A. Last year.

Q. What was it before that time? A. 25 cents.

Q. Do you know how much heavier it is? A. No, sir; I never weighed it, it is considerably heavier and the brace is heavier because it is better support than they had.

Q. What others? A. The wearing plates.

Q. What else? A. They increased five cents.

Q. When? A. Last year. There has been an increase in size, our wearing plates have increased from three inches to about eight to ten inches in length, that is, where they were three inches they are now not less than eight inches.

Q. What has been the increase? A. Five cents.

Q. From what? A. From ten to fifteen cents.

Q. What is the price of guards now? A. Thirty cents.

Q. Now any other repairs that are generally called for by the farmer that you can think of, any increase in price? A. No, sir; yes, sir.

Q. Since 1903? A. There is an increase in the holder plates.

Q. How much? A. Five cents.

Q. From what to what? A. From ten to fifteen cents.

Q. Is there any difference in the holder plates? A. Yes, sir; they are heavier.

Q. Do you think of any others? A. No, sir.

Q. In either one of these three in which there has been an increase of five cents it has been instances where the articles has increased either in weight or in length? A. Yes, sir.

Q. How about the general run of repairs? A. You mean the quality?

Q. I mean the prices of the general run of repairs? A. Very naturally there has been a little decrease.

Q. Now in regard to these things you mentioned the wearing plate and wearing holding plate for the heavier size of which there has been an increase of five cents? A. Yes, sir.

Q. Has there been any increase in the old size? A. No, sir.

Q. That has decreased? A. Yes, sir; our sickle stopps has decreased.

Q. Just where there has been an additional size there has been an increase of five cents? A. Yes, sir.

Q. Any one that wants the old size can get it at the old price or a little less? A. Yes, sir.

Q. How do you handle the repairs? A. On a commission basis.

Q. Is that any advantage to the farmer? A. I think the biggest advantage on earth.

Q. Why? A. Well, from the fact that the farmer would come in and want teeth for the mower and we would say, it would cost 40 cents and if he was in a hurry for it we would have to order it for anything, if it cost him 25 cents, and if it was sent by express it would cost him 25 cents more, making it cost him 50 cents instead of 40 cents and not only that, but the loss of time to him.

Q. Why could you not keep it in stock if you did not handle it on an agency commission basis? A. I could not carry a full stock, I would be out of goods more than I would be in.

Q. Can you give us an idea how much larger stock you carry because of the commission agency contract? A. Seventy-five per cent.

Q. That is you would not carry more than a fourth of what you carry than if you had to pay for it? A. No, sir.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revell:

Q. You never had any trouble in getting repairs on a commission agency contract? A. No, sir.

Q. The International Harvester Company of America has not benefited you or the farmer in that respect? A. No, sir; I cannot say that is a fact.

Q. You spoke of an increase of 50 per cent on certain repairs from ten to fifteen cents? A. Yes, sir.

Q. Are the old repairs the old sizes now listed? A. Yes, sir.

Q. And at the same price? A. Well, I sold the old style guard at 25 cents and the new style at 30 cents.

Q. And you always sold the old style at 25 cents? A. Yes, sir.

Q. So there has been no decrease in that? A. No, sir.

Q. In fact the old size is now just the same on the three articles you mentioned as it was before? A. Yes, sir.

Q. What machines were sold in your community in 1902, what binders? A. Well, they sold the Wood binder, Champion binder and the Deering binder and the Minnie and the Plano and the Milwaukee and the McCormick. Now I say the Minnie, I think it was sold in 1902, I would not be positive in regard to the years the Minnie was sold at.

Q. It did not last very long after 1902? A. No, sir; I replaced two of the machines that year, whatever year that was.

Hon. Selden P. Spencer, counsel for Respondent:

Q. What machines? A. The Minnie.

Examination resumed by Hon. Charles G. Revelle, counsel for Informant:

Q. The Wood did not last very long after 1902? A. Yes, sir; there had been several machines sold there.

Q. Recently? A. No, sir.

Q. How recently? A. I think there were some three or four Wood machines sold three years ago.

Q. Binders? A. Yes, sir.

Q. Since 1902 and prior to that time, what part of the business done by the Champion and the Plano and the Milwaukee and the McCormick? A. All of it.

Q. All of it? A. Practically all of it, I would say 90 to 95 per cent.

Q. And what part of the mower business was done by these companies? A. Well, practically all of the mower business was done by the Deering, Champion, Milwaukee, Standard and McCormick.

Q. Well, now what part of the business was done by the Champion, Deering, Milwaukee and McCormick in 1902? A. Well, I would say 75 per cent, probably 80.

Q. The Standard was doing probably 20 per cent prior to that did you say? A. Yes, sir; 1902.

Q. At this time what part of the binder business in your territory is done by the International Harvester Company of America? A. All of it.

Q. What part of the mower business? A. Well, this year probably 50 per cent.

Hon. Selden P. Spencer, counsel for Respondent:

Q. How much? A. 50 per cent.

Examination resumed by Hon. Charles G. Revelle:

Q. How much prior to this year? A. Last year I would judge we did 75 per cent. of the mower trade.

Q. Are you the only agent the International Harvester Company of America had? A. No, sir; there are two other agents there.

Q. In giving the estimates, you are including your sales and the other agents of the International Harvester Company of America? A. Yes, sir.

Q. And 75 per cent last year? A. Yes, sir.

Q. And what the year before? A. Well, I would be safe in saying 80 to 90 per cent.

Q. And the year before that practically about the same? A. Yes, sir; 80 or 90 per cent.

Q. Who did this 50 per cent in the mower business last year? A. W. H. Gustin and the Clark Lumber Company.

Q. What machines? A. They handled the Standard and the Dane.

Q. The Standard and the Dane? A. Yes, sir.

Q. The Acme is not sold there? A. No, sir.

Q. Did the McCormick or the Milwaukee, the Champion or the Plano or the Deering Companies before 1902, manufacture and sell wagons and tillage implements? A. No, sir; none that I know of outside of the Osborne Company.

Q. They manufactured a few tillage implements? A. Yes, sir.

Q. They made no wagons? A. I handled some of the Osborne line of stuff.

Q. They manufactured a very limited line of tillage implements? A. Yes, sir.

Q. Nothing to compare with the different line of tillage implements now manufactured by the International Harvester Company of America? A. No, sir.

Q. At what price do you sell your six-foot binders? A. \$130.00.

Q. That is a fixed standing price of yours? A. Well, yes, sir; that is the price I figure on getting.

Q. That is the price you offer it? A. Yes, sir.

Q. And what is the price at which the other binders manufactured by the International Harvester Company of America are selling in your community? A. Well, the Champion is sold at \$118.00 to \$120.00 to \$122.50. One binder I think was sold at \$115.00, at least it was so reported to me and beyond a shadow of doubt it was true.

Q. Do you know the regular price fixed on the Champion by the dealer there? A. It cost the same money as mine does.

Q. Do you know at what price he holds it out to the public regularly? A. No, sir; I could not say what price he does hold it out. He supposed to get \$130.00, he would be supposed to have to get that if he got anything like the commission fixed with the rest of us.

Q. Upon what do you base your opinion that he is supposed to get \$130.00? A. It cost him the same money as the McCormick and the same money that the Deering cost.

Q. You sell the McCormick at \$122.00? A. At \$130.00.

Q. And the Deering? A. I do not handle the Deering. Mr. Potts handles it.

Q. Is it not rather suggested to the agents by the International Harvester Company of America that these machines ought to bring \$130.00? A. No, sir; I tried to get them two years ago to fix at what we would handle them, he said he did not do that, that was our block man, he said he supposed it would be in the neighborhood of \$40.00 or \$45.00 for mowers, he said I had to use my own judgment.

Q. You have a fixed territory, have you not? A. Yes, sir; properly speaking I have, it is hardly fixed.

Q. A block man comes to your territory of course? A. Yes, sir.

Q. What are their general duties with regard to local agents?

A. Look after the business and make contracts.

Q. You mean the agency contracts? A. Yes, sir.

Q. What else do they do? A. They are supposed to be there and give us assistance if necessary.

Q. In the way of making sales? A. Yes, sir; it is not so much the block man's duty to do that as the agent, they set up and handle machines.

Q. They send men around besides the block men? A. Yes, sir.

Q. Do these parties assist in making the sales of the block man?

A. The stock man is hardly supposed to assist in making a sale outside of your place of business.

Q. They send you canvassers to go around with you? A. Yes, sir.

Q. When they send the canvassers to you and of course they will not take an order away for the Deering machine? A. Yes, sir; he will take an order for the Deering machine if I want to sell one.

Q. When you have another agent there selling the Deering machine? A. Yes, sir; it has been done in our town.

Q. You can handle the Deering and the McCormick machines both? A. We are not supposed to do it, it has been done there, I handle the Milwaukee, that is handled or has been handled there by another party.

Q. When they had another agent there? A. Yes, sir.

Q. The block man never did that? A. No, sir.

Q. Did you have to pay that agent a part of your commission?

A. Not a bit of it.

Q. You never knew of a block man coming into your territory for the purpose of taking the order for one party and turning it over to the other party? A. No, sir.

Q. You never knew of it? A. No, sir.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. You say the wearing plate has increased in size? A. Yes, sir.

Q. Can you tell the Commissioner how much the increase in size

was? A. I would judge it was three-eighths of an inch wider and as much as 4 to 5 inches longer.

Q. It was more than twice as heavy? A. Yes, sir; it is fully twice as heavy.

Q. That is while the increase in weight was more than twice as great the increase in price was from five to ten cents? A. Yes, sir.

Q. Did that Minnie Harvester you say that was sold, did not give satisfaction? A. No, sir.

Q. You say you had to replace some of them? A. Yes, sir; I had to replace two of them.

Q. You hold out the price at \$130.00? A. Yes, sir.

Q. Do you cut the price any? A. Yes, sir; I will sell a man a binder for \$120.00 and give him 50 pounds of twine.

Q. It is not a fixed price? A. No, sir.

Q. You are free to do as you like? A. Yes, sir.

#### RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. The company will not make you any reduction? A. No, sir.

Q. How much does that plate weigh that increased from ten to fifteen cents? A. I judge it would weigh five or six ounces, might possibly weigh eight, it would be pretty hard to say.

Q. That is a new plate? A. Yes, sir.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What would the old one weigh? A. I would not be sure, three ounces.

Q. The price at which you fix your former machine, the Harvesting machine and the Mower, does that vary in the way you fix your prices on stoves or plows or things of that kind? A. No, sir; they write me up by special contract, they want me to handle their goods alone, I would not accept them under these conditions and I had to change the contract and if I saw fit to handle any other goods, I could.

Q. In their regular contract they require an exclusive agency contract? A. Yes, sir.

Q. But you required them to give you a special contract? A. Yes, sir.

#### RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. When you sell a plow or other farm implements you usually reduce the price? A. Yes, sir.

Q. You do not throw in fifty pounds of twine? A. Being a blacksmith I sharpen the plow, we make an actual cut on light goods.

(Witness excused.)



E. W. MOLLENKAMP, of lawful age being duly sworn upon his oath, testifies as follows on behalf of the respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. State your name? A. E. W. Mollenkamp.

Q. You live at Higginsville? A. Yes, sir.

Q. How far is that from Jefferson City? A. I believe about 110 or 115 miles.

Q. How long have you been handling farm implements, tools and machinery? A. Since 1898.

Q. What harvester line have you handled, and do you handle? A. Well the first year I handled McCormick goods, and in the last four years I have handled McCormick and Milwaukee, and also this last year I handled the McCormick, Milwaukee and Deering, I have a branch house at Lexington and I handle the Deering.

Q. What is the total amount of your business in farm machinery, etc.? A. It varies from 25 to \$35,000.00 a year.

Q. What proportion of that total business is represented by the goods which the International Harvester Company of America deal in? A. Well I would say probably 15 per cent., take it one year with another year, I have sold as high as \$13,000.00 of McCormick goods in one year.

Q. Was that an unusual year? A. Yes, sir.

Q. You say the average? A. I have given you it there.

Q. What would be the average Mr. Mollenkamp of the harvesters and binders, of the binders and mowers, what would be the average per cent as compared with your total business? A. Of the International Harvester Company of America?

Q. No, sir; you said the total business of the International Harvester Company of America goods was 15 per cent of your total business? A. Yes, sir.

Q. What per cent of your total business is the harvesters and mowers? A. About ten per cent.

Q. Between 1903 and 1907 for the season of 1908, was there any increase in the prices of binders and mowers? A. No, sir.

Q. What was the fact in regard to prices of other farm machinery outside of harvesters and mowers between these years? A. Some slight advance at different times.

Q. Between 1903 and now, what would you say was the advance of farm implements and tools and implements and machinery outside of the harvester line? A. I would judge some five and ten per cent. and some as high as 20 per cent., and some wagons 20 and 25 per cent.

Q. What would you give the general average that would be on farm tools and including wagons outside of the harvester line? A. I would judge ten per cent., that would be a little more on some but not as much as wagons, and that line they have advanced.

Q. Who fixes the retail price at which you sell to the farmer? A. Myself.

Q. You are free in the matter? A. Yes, sir.

Q. Do you maintain an invariable price, or do you cut the price?

A. I try to hold the price, I sometimes have to cut it to accomplish a sale.

Q. Is there any difference in the way you handle the Harvester lines and mowers and binders than the way you handle other lines?

A. No, sir.

Q. What competition have you in your locality on binders? A. I have competition from the Acme and also from other agents, the Milwaukee, Deering, Champion and good agents. We have got agents within four or five or six miles from me and also in my own town.

Q. Representing what companies? A. Representing the International Harvester Company of America.

Q. As well as the Acme? A. Yes, sir.

Q. And what other one? A. There has been during my period in business, the Johnston machine, it has been sold, and the Acme and the Walter A. Wood, and at Dover, the Acme was sold at Dover last year and also at Higginsville.

Q. How do you handle your repairs on commission or by sale? A. I handle from the International Harvester Company of America, the biggest part of the repairs or commission on other lines, I have to buy them.

Q. Now for example on cultivators, what do you do with them, buy them? A. Yes, sir; when I need them I do not buy them until I need them.

Q. On binders you carry them in stock? A. Yes, sir.

Q. So if a farmer wants repairs on binders and comes to you what is the result? A. We generally have them on hand.

Q. If the farmer wants repairs on cultivators, you have not got them, what is the result? A. He has to wait until we get them from Kansas City.

Q. Can you tell me how much larger proportion of repairs you have because you handle them on commission than if you had to handle them outright? A. I would not carry, not as far as harvester machines are concerned outside of sections and guards and such like, unless I could handle them on a commission.

Q. What is the reason of that? A. I would have to buy them and a man never knows what is needed. I have tried to buy a few repairs as I would need them for other lines of goods. I found at the end of the year I would have \$25.00 to \$30.00 worth of repairs on hand that were no good to me. By handling them on a commission I take no chances.

Q. How about the repairs on the Woods and Acme, are they handled the same way? A. I don't know, I presume they are to some extent.

Q. In your experience in running back so many years, has there been any increase in repairs since 1903, on these repairs generally called for by the farmer? A. A slight advance.

Q. Can you name any article of repairs that is generally called

for by the farmer that there has been any advance? A. Nothing more than canvass, sections and guards.

Q. Has there been any advance on guards? A. Yes, sir; I think so.

Q. From what to what? A. I could not say positively.

Q. Are you sure there has been an advance either on guards, or binders or mowers? A. I would not say positively.

Q. Can you say positively there is any increase on anything since 1903? A. We had an increase on commission.

Q. That is you now get what commission? A. Thirty per cent.

Q. And formerly what? A. 25 per cent.

Q. Is it not a fact that on the repairs the prices have either remained stationary or decreased a little? A. About that; yes, sir.

Q. You are not bound to handle any special line of the International Harvester Company of America goods or all of them? A. No, sir.

Q. As a matter of fact, do you handle their wagons? A. No, sir.

Q. What wagons do you handle? A. The Studebaker and Peter Schuttler.

Q. How has the price been on wagons since 1903? A. I have bought wagons for \$50.00 eight or nine years ago, and I am paying \$75.00 for them now. Excuse me, in the same wagon, however, it was not the same wagon, it was the wagon I bought six years ago, it was a cheaper wagon that I am now handling, but the wagons even from this last spring, I bought wagons last spring and I bought in January, and I bought wagons in the last ten days when I paid \$5.00 more for the wagon now than last spring.

Q. What did you pay for them? A. I bought some last week at \$75.00 that last spring I paid \$69.75.

Q. Can you tell us what the increase of wagons has been since 1903? A. Some wagons \$15.00 to \$20.00 over what the price used to be.

Q. From what they were? A. From \$55.00 to \$70.00 to \$75.00, \$65.00 and along there.

Q. Who carries the insurance on the commission goods and the other goods of the International Harvester Company of America goods that you handle? A. Well, in former years my binder business in that our contract calls for carrying insurance ourselves in late years—

Q. Did that apply to the commission goods you had on hand? A. Yes, sir; and the last years they carried.

Q. Do you remember when the change occurred? A. I think I am not positive as to when it occurred.

Q. It was sometime in the last 4 or 5 years? A. Yes, sir.

Q. Did you have any experience in it? A. Yes, sir; I lost ten McCormick binders by fire and the company credited them for me and I also lost some spreaders by fire that I had paid for really.

Q. And bought really for yourself? A. Yes, sir.

Q. What was done by the insurance on them? A. They took

them off my hands and refunded me the spreaders and the International Harvester Company of America did that themselves.

Q. The International Harvester Company of America did that?  
A. Yes, sir.

CROSS-EXAMINATION.

By Hon. Charles Q. Revelle:

Q. In stating that the business which you do annually of the business you do annually, there is but fifteen per cent. of that business represented by farm implements and binders I believe you stated? A. Some years some where along there.

Q. Now there are a great many implements you handle that are not manufactured at all by the International Harvester Company of America? A. Yes, sir.

Q. So in stating that 15 per cent of the business you did is in farm implements you mean that is the 15 per cent of the business is represented by the International Harvester Company of America business? A. I don't know that I understand you.

Q. Whether it represented by the International Harvester Company of America or not, that is all the implements you bought from the International Harvester Company of America? A. Of the goods I handled through the International Harvester Company of America, as manure spreaders I bought them direct, and mowing machines and binders I handled on a commission, and also handled twine, I bought it.

Q. But 15 per cent of the business you did, merely represents the sale of implements that you bought from the International Harvester Company of America, either bought from them or sold for them on a commission? A. Some where along there, might be more some years and less others.

Q. You handled a great many implements in addition to this 15 per cent. that are not manufactured at all by the International Harvester Company of America? A. Yes, sir.

Hon. W. M. Williams, counsel for Respondent:

Q. Well I understood you to say the sale of farm implements, tools and machinery was \$25,000.00?

Hon. Charles G. Revelle, counsel for Informant:

The manner in which Judge Spencer asked the question indicated that he meant to ask him whether or not this 15 per cent represented all the business he does on all the farm implements?

Hon. Theo. Brace, Commissioner:

Now does the witness wish to be so understood that the total sales of your farm implements were \$25,000.00? A. Yes, sir.

Q. And of that amount 15 per cent were implements manufactured by the International Harvester Company of America? A. Well, probably I stated it that way, I want to be understood about it. I did not understand those questions just exactly. Now I might get at it this way. I sell all the way, I have sold as high as 60 McCormick binders in one year, and then again my sales have gone down as

low as ten and twelve and probably I have sold 25 and 30 mowing machines, and my sales have gone down to ten and fifteen.

Q. What I was trying to get at was on an average? A. I don't know what per cent. a man would figure it, I never figured that down absolutely.

Q. In making the statement of 15 per cent. you mean to say that 15 per cent. of your business represented implements you purchased from the International Harvester Company of America are sold for them on a commission? A. Well I am not right certain that it does as I say, I think it does some where along there.

Hon. Theodore Brace, Commissioner:

Q. I understand this that is, only sales of agricultural implements amount to that gross sum \$25,000.00 or \$35,000.00, that of that amount 15 per cent. consisted of agricultural implements that were manufactured by the International Harvester Company of America.

Hon. Charles G. Revelle, counsel for Informant:

Q. That he bought from or sold for them on a commission?

Hon. Theodore Brace, Commissioner:

A. Yes, sir.

Q. What is your regular price on the six-foot binder? A. Well the regular price on the six-foot binder is \$123.00 where a man pays the cash for it, and \$5.00 more if he wants time on it.

Q. That is what you sell it at? A. Yes, sir.

Q. What is the regular price at which their six-foot binders made by the International Harvester Company of America are sold in your community? A. I think they are sold for the same maybe more or less, I could not say positively.

Q. Is it not a fact that the regular standing price is about the same on the one you sell and the others manufactured by the International Harvester Company of America? A. I don't know, I expect it is; yes, sir. I do not see any difference.

Q. What part of the binder business that was done in 1902 in your community was done by the McCormick, Milwaukee, Deering, the Plano, the Champion and the Osborne? A. In 1902?

Q. Yes, sir; and for a year or two prior to that time? A. Well I don't know as I can recall that year, one of these years I sold the most binders that was sold at Higginsville, they were McCormicks, whether that was 1902 or another year, I am not positive, it was right along there.

Q. Were there any binders sold in that community excepting the binders of the McCormick and the Milwaukee and the Champion and the Plano and the Osborne and the Deering? A. I think there were offers for sale.

Q. Were there any sold? A. I am not positive as to that, they were trying to sell the Walter A. Wood machines along in that locality.

Q. You know as a matter of fact they did not succeed in selling very many of them? A. Yes, sir; I do.

Q. Cannot you give us an estimate of the sales represented by the Champion, Osborne, Milwaukee, the Plano, Deering and the Osborne in 1902, that is take these altogether, what proportionate part

of the binder business was done by these six companies? A. No, sir; I don't know as I am able to give you an estimate exactly, I remember they all had agents, as to the amount of business I will not say.

Q. You know that these companies had at least 95 per cent. of the business when they were taken together in 1902? A. You mean the Milwaukee, the Deering, the Osborne, the Plano, McCormick, and the Champion in 1895?

Q. Yes, sir; those were the ones that later went into the International Harvester Company of America? A. In our locality, you mean?

Q. Yes; these companies combined? A. I think so.

Q. And did at least 95 per cent? A. Yes, sir.

Q. What part of the business is done in your community now by the International Harvester Company of America on binders? A. Well I think the majority of it is done by those, the majority of the machines sold are manufactured by the International Harvester Company of America.

Q. What part of the majority would you say? A. I would safely say 95 per cent.

Q. What per cent. of the mowers? A. The same.

Q. Would you say that represents approximately the business done on mowers in 1902, by these six companies? A. Yes, sir; I think it would, I do not think it would vary much.

Q. Have you at your home at your place of business the repair list, the retail prices for the year 1902, or do you know them? A. I could not say, no, sir; I don't know whether I have or not.

Q. Well do you handle the Weber Wagon? A. No, sir.

Q. Do you know what increase has been in the Weber wagon in the last three or four years? A. No, sir.

Q. The International Harvester Company of America does not handle your repairs on a commission in the cultivators, harrows and plows? A. No, sir.

Q. It is only on the harrows and mowers? A. Yes, sir; and manure spreaders.

Q. Well, you sell the manure spreaders on a commission? A. No, sir.

Q. You buy them outright? A. Yes, sir.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. The International Harvester Company of America does not deal in plows at all? A. Not that I know of.

Q. I understood you to say that you were perfectly free to fix your own price since 1903, at which you sold the farmer? A. Always have been.

Q. In 1899, when you were selling for the McCormick under their

contract that you had, they required you to conform to a certain retail price? A. No, sir.

Q. Was there any exclusive agency clause in their contract? A. I think there was.

Q. Limiting you to sell only the McCormick machine? A. I think so.

Q. Do you remember what price you had to pay for the six-foot binder in 1899 or 1900? A. I could not say.

Q. I wish you would produce the contract for 1900 and the price list, is that it? A. Yes, sir; that is signed by me.

Q. Do you recognize that commission agency contract? A. Yes, sir.

Q. That is the contract under which you operated for that year, 1899? A. Yes, sir.

Q. Is that price listed for 1900, the price list furnished to you, is that the one that is drawn up there? A. Yes, sir.

#### RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. You recognize this as the contract you signed last year? A. Yes, sir.

Q. That is the McCormick contract? A. Yes, sir.

Q. What was done with this contract at the time it was signed; this was the one that was delivered to the company, did you keep a copy of it? A. That contract was in my possession and has been.

Q. Now what time was this contract in your possession? A. Up until recently.

Q. How recently? A. Two weeks ago.

Q. What did you do with it then? A. I gave it to one of their men.

Q. One of their block men? A. Yes, sir.

Q. You know this list price is the one that was attached there in 1900? A. Yes, sir.

(Witness excused.)

E. W. MOLLINKAMP, of lawful age being duly sworn upon his oath, testifies as follows, on behalf of the respondent:

Recalled for further direct examination.

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. I do not remember whether I asked you or not since 1903, you have been perfectly free to sell to the farmer at any price you like? A. Yes, sir.

Q. And since 1903, has there been any exclusive agency clause in your contract that was in force? A. I think not.

Q. You have been free to take on as many lines as you like? A. I never have been dictated to as to that at all.



Q. Whether you wanted to take on the lines of other goods and those manufactured by the International Harvester Company of America, is that true? A. Yes, sir.

## CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. It does not matter what price you get for your machine or whether you give it away or whether the competition gets so fierce as to sell it as a reduced price, the International Harvester Company of America charges you the same price? A. Yes, sir; always.

## RE-DIRECT EXAMINATION.

By Hon. Seldon P. Spencer:

Q. That is true of all other farming implements, of plows and anything else? A. Yes, sir.

Q. There is no difference in those and the binders? A. No, sir.

## RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. You do not sell these other things on a commission like you do the binders? A. No, sir.

(Witness excused.)

PETER KOPPENBRINK, of lawful age being duly sworn upon his oath, testifies as follows, on behalf of the respondent:

## DIRECT EXAMINATION.

By Hon. Seldon P. Spencer:

Q. State your name? A. Peter Koppenbrink.

Q. You live at Alma? A. Yes, sir.

Q. How far is Alma from Jefferson City? A. I don't know, I imagine it is about 100 miles.

Q. What county is it in? A. Lafayette county.

Q. How long have you been dealing in Harvester goods, binders and mowers? A. Since 1898.

Q. What Harvesters have you sold? A. In 1898 I sold, we sold the Champion.

Q. Have you always sold that binder? A. No, sir.

Q. What others have you sold? A. I think it was in 1899 or 1900, that we got the Deering.

Q. Have you sold any others? A. Yes, sir; we have sold the McCormick, I think that was in 1905 or 1906.

Q. Any others? A. That is all.

Q. What mowers have you sold? A. We have sold the Champion and the Buckeye, at first we sold the Champion and Buckeye and afterwards we got the Deering and the McCormick.

Q. Did you sell the Dain? A. In connection with what?

Q. In connection with the Deering. You sold the Deering and the Dane together? A. Yes, sir.

Q. Sold it last year? A. Yes, sir.

Q. There was no objection from the International Harvester Company of America? A. No, sir.

Q. Has there ever been any objection to selling the other lines if you wanted to? A. No, sir.

Q. How about the prices at which you sold to the farmer, who fixes that, Mr. Koppenbrink? A. Why we do.

Q. Are you free in the matter? A. Sure.

Q. Has there been any increase in price of Harvester goods, binders and mowers between 1903 and 1908? A. No, sir; there has not.

Q. What has been the course of the prices in other farm implements, tools and machinery outside of the harvester line between 1903 and 1908 and 1909? A. Why they gradually went up.

Q. Can you tell us about how much? A. Well, I should judge from five to ten per cent., ten per cent I believe is about it.

Q. How about wagons? A. Wagons have gone up more than that.

Q. How much? A. I should judge 25 to 35 per cent.

Q. Can you tell us the general increase of price for farm machinery outside of harvesters in your territory between 1903 and 1908, counting wagons and all farming implements outside of the Harvester since 1903? A. I should judge from 15 to 25 per cent.

Q. What competition have you in the harvester line? A. Strong competition.

Q. Describe it, what kind? A. Well, we have on the east of us, there is Blackburn, and they sell the McCormick, on the south they sell the Deering and McCormick and maybe some other machinery, I don't know, I know they sell these two, and on the west is Corder and Higginsville, Corder sells the Milwaukee, and on the north of us is Waverly, I don't know what machine they sell, but they sell machines.

Q. Is the Acme sold in your territory? A. If it is I don't know.

Q. It is sold at Corder? A. I believe it is, I believe it is sold at Corder.

Q. What is the amount of your total agricultural business in dollars and cents? A. Just in implements?

Q. Of agricultural implements? A. Well I should judge it would be in the neighborhood of \$15,000.00.

Q. What proportion of that is represented by the goods of the International Harvester Company of America? A. About one-third.

Q. About one-third of that business is represented by the binders and mowers, the binders and mowers you sell, you do not sell any binders and mowers except the International Harvester Company of America? A. Yes, sir.

Q. What? A. The Dain.

Q. Of that \$15,000.00 or \$16,000.00 a year, what proportion is binders and mowers? A. One-fifth.

Q. What proportion of that is represented by the Dain? A. By the Dain; if we sell \$3,000.00 worth of binders and mowers—

Q. If you sell \$3,000.00 worth of binders and mowers, how much is represented by the Dain? A. One-tenth.

## CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. In 1902, what binders were sold in your territory? A. In 1902?

Q. Yes? A. Well the Deering.

Q. What other binders were sold by other parties? A. In the same community?

Q. Same community? A. Well there was the McCormick and Milwaukee, the Acme sold this last season, we sold one Champion.

Q. I am talking about 1902, was the Acme sold there in 1902? A. No, sir; I could not say it was.

Q. Are you sure the Deering and Milwaukee and McCormick was sold there in 1902? A. Yes, sir.

Q. Was the Champion, Plano or Osborne? A. Yes, sir.

Q. All three of them? A. In 1902?

Q. Yes, sir? All three of these?

A. Yes, sir.

Q. Were there any others? A. Well if there was I could not say which.

Q. Then all the binder business in your community that was done in 1902, was done by the McCormick, Milwaukee, Deering, Plano, the Champion and the Osborne companies? A. Yes, sir; practically all.

Q. Well what part of the mower business was done in 1902 by these six companies? A. I should judge practically all.

Q. Practically all? A. Yes, sir.

Q. What part of the binder business is done in your community now by the McCormick, the Milwaukee, Deering, Champion, the Plano, the Osborne, or the International Harvester Company of America? A. Well I believe it is very nearly all.

Q. Practically all? A. Yes, sir.

Q. How about the mower business? A. Well there are some Dain mowers sold.

Q. Very few as compared with the others sold? A. Yes, sir; as far as I know.

Q. Would you say the mower business done by the International Harvester Company of America in your community represents 90 or 95 per cent of the business? A. Well probably it does.

Q. Probably that much? A. Yes, sir.

Q. Did I understand you to say in reply to a question asked you by Judge Spencer that there had been an increase in binders from 1903 to the present time? A. No, sir; there has been an increase.

Q. Just one increase? A. Just one increase.

Q. At what price do you sell the six-foot binder, what is your regular price? A. Today?

Q. Yes, sir? A. Our regular price is \$130.00.

Q. What is the regular price of the other binders made by the International Harvester Company of America? A. The seven-foot?

Q. The six-foot you sell, the six-foot binder for \$130.00? A. Yes, sir.

Q. What other six-foot binders, International Harvester Company of America binders, are sold and what are they sold at that you are not handling? A. I don't know, I believe they are selling for the same price as near as I know.

Q. Do you handle the Weber wagon? A. No, sir.

Q. Do you handle any of the wagons manufactured by the International Harvester Company of America? A. No, sir.

Q. You don't know anything of any increase made by them on their wagons? A. No, sir.

(Witness excused.)

G. H. RABIUS, of lawful age being duly sworn upon his oath, testifies as follows, on behalf of the respondent:

#### DIRECT EXAMINATION.

By. Hon. Seldon P. Spencer:

Q. State your name? A. G. H. Rabius.

Q. You live at Mayview, Mo.? A. Yes, sir.

Q. What county is that in? A. Lafayette.

Q. How far is that from Jefferson City? A. About 130 miles.

Q. What business are you in? A. I am in the hardware and implement business.

Q. How long have you been in that business? A. Ten years.

Q. You deal in agricultural implements, tools and machinery? A. Yes, sir.

Q. What harvester lines do you handle? A. The Milwaukee and Deering and some Champions.

Q. What mowers? A. Milwaukee and Deering.

Q. Have you handled any other mowers? A. Why I have sold a few, I sold the Adraince and Platt and the Buckeye.

Q. Were there any objections ever made to you for selling any other line other than the International Harvester Company of America line? A. No, sir.

Q. Who fixes the retail price? A. I do.

Q. Is it uniform or do you cut it to get the trade? A. Cut it to get the trade.

Q. How much cut do you make in binders? A. I cut a dollar or two.

Q. How high have you gone? A. Not over \$5.00 at the outside.

Q. What is the total amount of your business in the agricultural implement line in dollars and cents? A. Some where between \$7,000.00 and \$10,000.00.

Q. What proportion of that is represented by the International Harvester Company of America? A. About 7 or 8 per cent. of the \$7,000 or \$10,000, it varies from time to time.

Q. What per cent. is that of the total business, what per cent. is represented by mowers and binders? A. Well, I should judge one-half of that or a little bit more, the greater per cent. is binders and mowers.

Q. Is the Acme handled in your territory? A. No, sir; not in my town.

Q. I mean in your general territory? A. I think it is only handled at Odessa.

Q. How far is that from Mayview? A. Nine miles.

Q. What are your competitive points, how near to you? A. Nine miles to Odessa, 12 to Lexington, 7 to Higginsville, 25 to Warrensburg.

Q. Take the cutting of prices to the farmers, how does it compare since 1903, with what it was before that time? A. The cutting of prices?

Q. Yes, sir? A. It is about the same, I do not see any difference in it.

Q. Has there been any increase in prices in the harvesting line, binders and mowers, from 1903 up to the season of 1908? A. No, sir.

Q. No increase in prices? A. No, sir.

Q. What has been the course of prices outside of mowers and binders on other farm implements? A. Tendency has been up.

Q. How much? A. From five to ten per cent.

Q. How about wagons? A. From 15 to 30 per cent.

Q. Can you give us the average of the increase of prices of wagons in your territory, between 1903 and now, outside of the Harvester? A. From seven to ten per cent.

Q. And the Harvester implements have increased how much? A. Between five and six per cent.

Q. You handle repairs on a commission? A. Yes, sir.

Q. You get what per cent for handling them? A. Thirty.

Q. What per cent did you use to get? A. 25.

Q. Is there any advantage to the farmer on handling repairs on commission? A. Yes, sir.

Q. What? A. We carry many more, we could not afford to have in them stock, they would become obsolete.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. You have also handled repairs on commission? A. Yes, sir.

Q. You had no more trouble before 1902, in getting repairs on commission than now? A. Not a bit.

Q. What binders were sold in your community before 1902? A.

Practically all the makes, the McCormick, Deering, Osborne and all the others.

Q. Were there any binders outside of the McCormick, the Milwaukee, the Deering, the Plano and the Osborne, sold there in 1902?

A. You mean the territory surrounding me?

Q. In your territory where you sold? A. Well of course I think there were some Walter A. Wood sold and a few Buckeyes.

Q. What part of the binder business was done in your community in 1902 by the McCormick, Milwaukee, Plano, and the Osborne collectively? A. Well, the greater per cent.

Q. Perhaps 90 per cent.? A. Yes, sir; 95 per cent.

Q. That is also true of the mower business? A. Yes, sir.

Q. What part of the binder business is done in your community now by the International Harvester Company of America with its Plano, Osborne, Deering, and other machines? A. I would say about 99 per cent of it, practically all of it, I know of but very few others sold.

Q. You state that the competition between the representatives of the International Harvester Company of America now is about as fierce as the competition used to be between the independent companies, is the competition between the agents of the International Harvester Company of America as fierce now as it used to be between the independent companies? A. Yes, sir; the same, the competition between the dealers just the same.

Q. The independent companies used to decrease the price when they got into the warfare? A. Perhaps they did.

Q. The International Harvester Company of America does not do that now? A. I have never been in a position where it was necessary to call on them.

Q. They never have offered to do it under any circumstances whatever? A. No, sir.

Q. What is the price at which you sell the six-foot binder? A. The regular price?

Q. Yes, sir? A. \$125.00 cash and \$130.00 time.

Q. What is the price on the other binders manufactured by the International Harvester Company of America not sold by you, but by others? A. Why just the same.

(Witness excused.)

JULIUS VOGT, of lawful age being duly sworn upon his oath, testifies as follows, on behalf of the respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. State your name? A. Julius Vogt.

Q. You live at Concordia? A. Yes, sir.

Q. How far is Concordia from here? A. About 95 miles.

Q. How long have you been in the agricultural, tools and farming implement business? A. Since 1882.

Q. 27 years? A. Yes, sir, from 1882 to 1902, in my fathers business and from 1902 to the present time for myself.

Q. Were you managing for your father, was the business in your hands so that you knew the prices of machinery and the business? A. Yes, sir.

Q. So for 27 years you have had experience in the agricultural, tool and farming business? A. Yes, sir.

Q. All that time at Concordia? A. Yes, sir.

Q. What harvesters and binders have you dealt in? A. Well, Deering binders, since 1882, exclusively until 1903.

Q. Any other binders? A. Not during that time.

Q. Since 1903, what binders? A. The McCormick and the Milwaukee.

Q. And also the Deering? A. Yes, sir.

Q. Up to 1903, you sold only the Deering? A. Yes, sir.

Q. Since 1903, you sold the Milwaukee and the McCormick in addition to the Deering? A. Yes, sir.

Q. What was the price in 1882? A. Of the six-foot Deering binder, \$275.00.

Q. Was that to the farmer or to you? A. To the farmer.

Q. What has been the course of the prices of the binders to the farmer since that time? A. A general decline in prices, a lowering of prices, the prices one season had an upward tendency, but as a whole the prices went down.

Q. That is the price in 1882 was what? A. \$275.00.

Q. What machine? A. All of them.

Q. To the farmer? A. Yes, sir.

Hon. Theo. Brace, Commissioner:

In that connection, what was it to the agent, what was the price to the agent when it was \$275.00 to the farmer, what price was it to the agent? A. About \$225.00 as near as I can remember.

Q. About \$225.00? A. Yes, sir.

Q. And the price both to the farmer and to the agent kept coming down there from that until when? A. Until 1908.

Q. Until 1908? A. Yes, sir.

Q. What was the price in 1908, both to the dealer and to the farmer? A. In 1908, there was a raise of 5 per cent.

Q. Now before we get to the raise, what did the price get down to both, to the dealer and farmer? A. In our town \$120.00 and \$125.00.

Q. That was the price in 1908 to the farmer? A. Yes, sir.

Q. What was the price to the dealer? A. \$95.00 was the lowest price.

Q. The cash price? A. Yes, sir.

Q. And the time price? A. We made a difference of \$5.00.

Q. That would be \$100.00? A. Yes, sir.

Q. How long did that price of \$95.00 to the dealer, which was the cash price in 1908, how long had that been in force? A. Until in 1908, if I remember right.



Q. How long back of 1908? A. I think that probably for three or four or five years.

Q. That is from \$275.00 in 1882 it kept on coming down until the dealer got it, say in 1893 or 1894 for \$95.00?

Hon. Theodore Brace, Commissioner:

You mean in 1903? A. Yes, sir.

Q. And that continued the same up until 1908? A. Yes, sir.

Q. Now in 1908, what was the increase? A. About five per cent., a net increase of five per cent.

Q. That is to the dealer? A. Yes, sir; to the dealer.

Q. Now then Mr. Vogt, before 1903, when the International Harvester Company of America was formed, and 1908, when you say the price was increased about five per cent. was there any increase on the price of binders or mowers in your territory to the dealer?

A. Between 1903 and 1904, when the International Harvester Company of America started to sell any and in 1908, was there any increase on prices in their binders and mowers? A. No, sir.

Q. They remained at that stationary price? A. Yes, sir.

Q. The increase in 1908, you say was about five per cent? A. Yes, sir.

Q. And the net increase was about five per cent., has there been any increase since then? A. No, sir.

Q. It has remained at that same price since then? A. Yes, sir.

Q. Has there been any increase since then? A. No, sir.

Q. What has been the increase of price on other farm machinery since 1903 to 1908? A. Prices have gone up.

Q. How much? A. On implements generally about ten per cent., last year ten per cent.

Q. How on wagons? A. The wagons we handle about 20 per cent.

Q. What wagons do you handle? A. The Mitchell, Biggs and Old Hickory.

Q. Between 1903 and 1908, the prices on wagons have increased 20 per cent? A. Yes, sir.

Q. And other farm implements you say not less than ten per cent.? A. Yes, sir.

Q. Counting on all farm implements, wagons but not including binders and mowers, what would you say was the average increase from 1903 to 1908? A. The average increase would be 15 per cent.

Q. From 1903 up to now, who has fixed the price at which you sell to the farmer? A. We fix our own price.

Q. Has there been any dictation? A. No, sir.

Q. Has the price or is the price uniform to the farmer? A. No, sir.

Q. You mean you cut the price? A. Yes, sir.

Q. How much do you get for a six-foot binder? A. \$130.00.

Q. How much have you cut the machine to the farmers? A. We do not cut any more than we have to, we do not like to lose a sale.

Q. How much does it run? A. From \$5.00 to \$10.00. Say from \$2.50 to \$10.00.

Q. So that sometimes in the last two years the price to the farmer which you try to make \$130.00 has gone down from \$130.00 to \$120.00? A. Yes, sir.

Q. And from \$130.00 to \$120.00? A. Yes, sir.

Q. That corresponds to the price of \$275.00 which you made to the farmer in 1882??

Hon. Theodore Brace, Commissioner:

Do not ask that.

Q. Was there cutting to the farmer when the price was \$275.00 to the farmer? A. Yes, sir.

Q. How much? A. The same proportion.

Q. When was it as you think Mr. Vogt, when was it you first got the binder for \$95.00. When was it? A. When was it, that was perhaps five years prior to 1903 as near as I can remember, I will not be positive.

Q. In 1898? A. Yes, sir; about 1898.

Q. And that price continued from 1898 up to 1908? A. Yes, sir; if I remember right, the price was \$95.00 from 1898 to 1908.

Q. What has been the course of the prices of repairs? A. If anything they have been reduced.

Q. Take it from the years 1903 to the present time? A. Yes, sir.

Q. Have any of them been increased in price? A. Not that I know of.

Q. If anything the prices have been reduced? A. Yes, sir; reduced.

Q. What is the total amount of business you do in a year? A. Just in agricultural implements, tools and machinery, about \$35,000.00.

Q. What per cent of that is fixed by the articles which the International Harvester Company of America deals in? A. About fifteen per cent of that.

Q. What per cent. of your business is made up of binders and mowers? A. At the present time about one-half of that.

Q. One-half of what? A. One-half of fifteen per cent.

Q. One-half of the fifteen? A. Yes, sir.

Q. What competition have you in binders and mowers? A. We have the Acme.

Q. In your general territory? A. You mean what other makes of binders? A. What other competition, either of other makes or other competition of binders and mowers in your territory? A. We have the Acme, is the only competition in our immediate territory.

Q. What are your competing points? A. Emma is four miles east of us.

Q. What machines are handled there? A. The Osborne.

Q. What others? A. Aullville, 7 miles west of us, the Deering is handled there. Alma, 8 miles north of us, the Deering is handled there. I believe the McCormick is too.

Q. How far is Sweet Springs from you? A. Eight miles.

Q. Are there any machines handled there? A. Yes, sir; the Deering and McCormick.

Q. How far is Concordia? A. That is nine.

Q. That is your place? A. Yes, sir.

The Acme is handled at Concordia? A. Yes, sir.

Q. How do you handle repairs, on a commission basis? A. Yes, sir.

Q. Is that any advantage to the farmer? A. Yes, sir.

Q. Why? A. If we would not get them on commission we would only order the repairs as we needed them; we would not carry them in stock.

Q. If you had to buy them? A. Yes, sir.

#### CROSS-EXAMINATION.

By Hon. James T. Blair:

Q. What year did these machines reach the \$95.00 price? A. In 1898.

Q. How do you fix the date? A. I fix the date from the fact that the low price, that low price was about six or seven years before they raised the price of harvesters which was—

Q. Then you fixed it by reason of the fact that——— six or seven years before the time the raise in harvesters came? A. Yes, sir.

Q. Now if the raise in Harvesters came in 1907, when would you say the binders were first made to you at \$95.00? A. I would not be positive about the year. 1898.

Q. Are you positive it was only six or seven years prior to the year in which the raise of prices of binders came? A. I am pretty sure; yes, sir.

Q. From 1882 down to when they reached the low water mark in 1895, there was a constant general downward tendency in the binder prices? A. Yes, sir.

Q. And the first raise in binder prices since the machines were first put down in 1895 was in 1907 or 1908? A. Yes, sir.

Q. In 1901 and 1902, Mr. Vogt, what other machines were being sold in your community and vicinity if any, besides the McCormick and the Milwaukee and the Deering and the Plano and the Osborne? A. None.

Q. In your community and vicinity and selling territory, these companeis I have named were doing about all the binder business at that time? A. In 1901.

Q. And 1902? A. They were not doing business there, only the Deering, the McCormick, the Milwaukee and a few Osborne were sold.

Q. Any others of any other makes? A. No, sir; that I remember of.

Q. At that same time what per cent of the business in mowers were the McCormick, and the Milwaukee and the Deering, and the

Champion and the Plano and the Osborne Company doing in your community and vicinity? A. They were doing practically the entire business, there were no other makes sold there.

Q. At the present time in your community and vicinity, what per cent. of the binder business is represented by sales of the Deering, McCormick, Plano and Osborne binders? A. For what year?

Q. This season? A. One hundred per cent.

Q. What per cent. of the mower business is represented by sales of the mowers of these same names? A. About seventy-five per cent., as near as I could find out.

Q. What other mowers are being sold in your community and vicinity? A. The Acme and Standard.

Q. You think they did a fourth or represented a fourth of the sales in that territory? A. Yes, sir; in the mower business.

Q. You do not handle the Weber wagon? A. No, sir.

Q. Or any other wagon made by the International Harvester Company of America? A. No, sir.

Q. These repairs, Mr. Vogt, you say have been reduced in price? A. Yes, sir.

Q. To some extent? A. Yes, sir.

Q. Well these repairs are of a character such as are furnished by other companies besides those that went into the International Harvester Company of New Jersey, even for the Milwaukee and McCormick machines? A. Well other companies besides the International Harvester Company of America is in the market with repairs which will or can be adjusted upon the International Harvester Company machines? A. Yes, sir; certain repairs.

Q. And those repairs have been reduced in price? A. Yes, sir.

Q. Now you say the Acme Company is selling some machines in your community? A. Yes, sir.

Q. Since what time have they been doing so? A. About three years.

Q. Heretofore was the Acme ever represented in your town or vicinity? A. Not in our town, I am not aware that we have any in the country there.

Q. I believe you said your present price of the six-foot binder to the farmer, the one you held out was \$130.00? A. Yes, sir.

Q. Well how do you know at what price the other International Harvester Company six-foot binders are offered to the public, at what price outside? A. I don't know only those that we handle, they are offered both at the same price.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Was not the Minnie handled in 1902 by Thieman Bros.? A. In 1902, yes, sir; I think so.

## RE-CROSS-EXAMINATION.

By Hon. James T. Blair:

Q. How long did the Minnie last in the binder market, they were not a satisfactory machine? A. Yes, sir; they sold a good many there.

Q. You replaced a good many? A. Yes, sir.

Hon. Theodore Brace, Commissioner:

Q. Do you remember the price what it was in 1882? A. No, sir; I do not. We practically had no mower trade in 1882.

Hon. Theodore Brace, Commissioner:

Q. When did your mower trade commence? A. Not until the ten years after our binder trade commenced.

Q. That was in 1892? A. Yes, sir.

Q. Do you remember what the price was then? A. No, sir.

Q. Do you remember the price of the mower any time along there from 1892 to 1895? A. \$40.00 to \$42.00, \$45.00 for a five-foot.

Hon. Theo. Brace, Commissioner:

Q. Was that to the agent or to the farmer? A. Was that to the farmer?

Q. Yes, sir? A. Yes, sir.

Q. What was it to the agent? A. \$33.00 or \$34.00.

(Witness excused.)

E. R. PEMBERTON, of lawful age, being duly sworn upon his oath, testifies as follows, on behalf of the respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is E. R. Pemberton? A. Yes, sir.

Q. Your home is at Marshall, Missouri? A. Yes, sir.

Q. How far is Marshall from here? A. I judge about 75 miles, I don't know exactly.

Q. How long have you been in the farm implement business? A. Since 1878.

Q. Since 1878? A. Yes, sir.

Q. 31 years? A. Yes, sir.

Q. You have been continuously in the farming implement business since then? A. Yes, sir.

Q. What harvester lines have you handled? A. Well in that time I handled them all principally.

Q. Well tell us for the several years? A. Well in 1878, I handled the Osborne and the Buckeye, and I continued to handle the Osborne and Buckeye possibly on up to 1884, and after that I handled the Minneapolis and Walter A. Wood on up to 1889. In 1889, I made a contract for the Deering and after that I handled the Deering, and Walter A. Wood and from that on up to probably 1895 and from that 1895 on up to 1907, I handled the Deering principally alone.

Q. What are you handling now? A. McCormick and Deering.

Q. What mowers are you handling? A. I handle the Deering.

McCormick, and I handle what is called the Standard Mower, made by the Emerson Manufacturing Company.

Q. Do you handle the Dain? A. Yes, sir.

Q. Did you ever handle the Acme binder? A. Yes, sir.

Q. And the Acme mower? A. I sell the Acme mower, not the binder.

Q. Have you handled the Wood since 1903? A. No, sir.

Q. How about the Acme mower you handled that since 1903? A. Yes, sir.

Q. You have handled the Wood? A. Yes, sir.

Q. When you started in 1878, what was the price of a six-foot binder? A. To the farmer? About \$360.00.

Q. Did you sell mowers then too? A. Yes, sir.

Q. What was the price of the mowers then to the farmer? A. About \$65.00.

Q. About \$65.00? A. Yes, sir.

Q. What was the course of the prices of the binder from that time on? A. It naturally declined.

Q. Take it along in 1882, from 1878 to 1882, what price had the binder been reduced to the farmer? A. It had gotten down to \$240.00 from \$275.00.

Q. To \$240.00 from \$275.00? A. Yes, sir.

Q. From 1882 down to 1890? A. To the farmer?

Q. Yes? A. I don't know as I can remember how they did range in there, how the binder did sell, I know there was quite a reduction from that period on down.

Q. From 1890 to 1895, do you know? A. Know what?

Q. From 1890 to 1895, what was the farmer paying then? A. \$140.00 I think.

Q. From 1895 down to 1903, what was the farmer paying? A. Well it ranged from \$130.00 to \$135.00.

Q. From \$130.00 to \$135.00? A. Yes, sir.

Q. From 1903 down to 1908, what has been the price to the farmer? A. Well a decline from \$120.00 to \$125.00.

Q. From \$120.00 to \$125.00? A. Yes, sir.

Q. From 1908 up to the present time what has been the price to the farmer, on a six-foot binder to the farmer? A. Well now it would run from \$130.00 to \$140.00. Some would buy it with the tongue truck.

Q. That is a new thing? A. Yes, sir; that is \$130.00.

Q. \$130.00 without the tongue truck? A. Yes, sir.

Q. What has been the course of prices of mowers which you say were about \$65.00 in 1878, what did they get to in 1903? A. They got down to \$37.50 or \$40.00.

Q. What did they get to in 1908? A. In 1908, well we sold in 1908 all the way from \$40.00 to \$45.00.

Q. That is from 1903 to 1908? A. No, sir; I thought you said in 1908, they were \$37.50.

Q. From 1903 to 1908? A. Yes, sir; from \$35.00 to \$40.00.

Q. Since 1908, has there been any increase on mowers for the

season of 1908? A. Yes, sir; there has been a little advance since 1908.

Q. How much, what per cent? A. I never figured it out, I probably would figure it from five to seven per cent. 6 and a fraction.

Q. From 1903 to the season of 1908, there was no increase in the prices on binders? A. No, sir; in either binders or mowers.

Q. But since 1908, there has been an increase in binders of how much? A. Six per cent.

Q. And mowers, how much? A. The same.

Q. Is that the same in mowers as binders? A. No, sir; not as much in mowers as binders, the per cent. is not as much in mowers as binders.

Q. What was the price to the dealer to the agent of binders in 1878, when it was sold to the farmer for \$360.00? A. \$360.00!

Q. Yes, sir? A. About \$270.00.

Q. That is when it was sold to the farmer in 1878 for \$360.00. The price to the dealer was about \$270.00? A. Yes, sir.

Q. Now Mr. Pemberton in 1878, when you said the price of the mower was \$65.00, was that not the price to the dealer? A. Well, you see back there it was principally back in there, there was a combination machine, a dropper and a mower, and it run \$125.00? You could use it as a wheat machine or by taking that attachment off it could be used differently.

Q. In 1878, to the farmer, what was the price to the farmer of the mower? A. In 1878, the usual thing he sold just the mower, called now-a-days occasionally the dropper.

Q. How much did it sell to the farmer? A. \$125.00.

Q. And the price to the agent was what? A. I do not just remember, just what the price to the agent was.

Q. Is that the same machine, did that machine do the same work as is now done by the mower? A. Yes, sir; the same only it had then what was called a dropping attachment to cut the wheat and they could take off that attachment and use the knife.

Q. That mower is now sold to the agent at about what? A. \$36.00.

Q. And to the farmer at what? A. \$42.50.

Q. And prior to 1908, it was sold to the agent at what price? A. This is for the season of 1908?

Q. Yes, sir? A. Well about \$35.00.

Q. And was there any increase from 1903 to 1908? A. No, sir.

Q. What Mr. Pemberton has been the course of prices in other agricultural implements between 1903 and 1908, outside of the Harvester line? A. What advance has there been?

Q. Yes, sir; if there has been any, what is the course of prices? A. Certain things advanced more than others, you can take it for instance farm tools, such as plows and disc harrows, they have advanced about ten per cent.

Q. How about wagons? A. More than that. 25 to 30 per cent.



Q. What would you say was the average advance in farm machinery of tools outside of binders? A. Including everything?

Q. Yes, sir; every thing excepting the harvesters, including wagons and plows between 1903 and 1908? A. I don't know, 16 to 18 per cent.

Q. What per cent. of your total business is represented by your total agricultural business, the business you do in agricultural business of tools and machinery as represented by the lines the International Harvester Company of America deal in? A. I judge about fifteen per cent.

Q. And what per cent of your business is represented by harvesters and mowers? A. I judge half of that.

Q. One-half of the fifteen per cent? A. Yes, sir.

Q. Do you fix the prices at which you sell to the farmer yourself? A. Yes, sir.

Q. Is that a uniform or fixed price? A. I sometimes cut it.

Q. How much do your cuts run? A. That cutting depends on the payment by which the farmer wants to pay it, of course if we get the cash—

Q. How much in dollars and cents, how much do your cuts run? A. All the way from \$2.50 to \$7.00.

Q. On a machine? A. Yes, sir.

Q. You are perfectly free in that matter to do as you like? A. Yes, sir.

Q. Is the course of your business fixed in cutting prices or not cutting them, is there any difference in the harvester line and any others, such as plows, rakes, etc.? A. Not a bit.

Q. Just the same? A. Yes, sir.

Q. What competition have you in Marshall in the harvester line? A. We have the Acme line.

Q. And mowers? A. Yes, sir; binders and mowers.

Q. With what line of mowers? A. The Acme line and the Moore.

Q. Do you have the Dain? A. You asked me about my competitors, I handle the Standard and the Dain.

Q. So in your community any mowers outside of the line manufactured by the International Harvester Company of America, there are sold the Acme mower, the Dain and Standard? A. Yes, sir.

Q. And no binders are sold but the Acme? A. Yes, sir.

Q. Is the Johnston sold there? A. No, sir.

Q. Or the Wood? A. No, sir.

Q. What points have you that compete with you in binders and mowers? A. Malta Bend, Miami, Fairville and Nelson, Arrow Rock and Slater.

Q. Within what territory, what number of miles are these towns? A. Ten to fifteen miles.

Q. Do you handle the Wood binder yourself? A. Yes, sir.

Q. When? A. I made a contract with them last year, 1908.

Q. Have you a contract this year? A. No, sir; not so far.

Q. Why did you discontinue? A. I have not made any contract with anybody until the first of the year.

Q. What was the cause of the discontinuance? A. I did not get my goods in time for harvesting. I cancelled my contract.

Q. That was for the season of 1908? A. Yes, sir; I probably will make it again this year, I have not made any yet this year.

Q. How do you handle your repairs? A. On a commission basis.

Q. Is that any advantage to the farmer? A. Yes, sir; it enables him to carry a big stock on hand. It saves him from paying the express on it.

Q. Do you carry a larger stock than if you had to buy them? A. Yes, sir.

Q. How much? A. I judge about 90 per cent. larger.

Q. On the agricultural implements that you handle for which you have to buy your repairs, that is outside of the Harvester line, do you carry or keep repairs on hand? A. No, sir.

Q. When the farmer wants repairs, what is the course? A. I have to order them.

Q. You telephone and get them? A. Yes, sir.

Q. Does he have to pay for the phone and express? A. Yes, sir.

Q. But on the commission basis you carry them on hands? A. Yes, sir.

Q. Is there any limit as to the amount of goods you carry on hand? A. I could get all I wanted.

Q. You pay for them after you sell them? A. Yes, sir.

Q. What per cent. do you get? A. 25 per cent.

Q. Is it not 30 per cent now? A. Yes, sir.

Q. What did it used to be? A. 25 per cent.

Q. Do you remember when the change was made? A. I think in 1893, sometime in the last 3 or 4 years.

Q. Sometime in the last 3 or 4 years? A. Yes, sir; from 25 to 30 per cent.

#### CROSS-EXAMINATION.

By Hon. James T. Blair:

Q. You stated the price of the binder in 1878 was \$360.00? A. Yes, sir.

Q. That was to the farmer? A. Yes, sir.

Q. You said also that the price until up to 1900 or 1902, naturally declined, to what was that decline attributable, if you know? A. No, sir; I do not know.

Q. What do you mean by saying it naturally declined? A. Well the price went down, I don't know what was the cause, whether it was caused from raw material or competition.

Q. Competition up until 1902, was pretty sharp was it not, Mr. Pemberton? A. No, sir; I don't know as it was.

Q. These companies were not competing with each other in any or in any earnest manner? A. I don't know.

Q. Don't you remember after you commenced handling binders they had field trials and agents for different companies appeared with different machines and were attempting to sell them to the farmers of the community, cutting prices, etc.? A. Well I don't know as competition was any stronger then than now.

Q. Do you remember anything in the question I put to you, I asked you do you not remember you had former field trials and agents came out and compared the machines and put them in the field and showed how they worked and attempted to show that by methods of that kind? A. Yes, sir; I have heard of them, we had a field trial with us in 1882 I think.

Q. You don't know of any field trials after 1882? A. No, sir; not with us.

Q. Now in your community or vicinity? A. No, sir.

Q. Now the price of binders gradually declined to 1902, when it reached the price of \$95.00 to the dealer? A. Yes, sir.

Q. After 1902 the price remained stationary until it went up to \$102.50 and 105.50? A. Yes, sir.

Q. And \$107.50 with the transportation truck? A. Yes, sir.

Q. It was in 1901 and 1902 for the first time that the \$95.00 price was made to the dealer? A. I think so.

Q. And the price then to the farmer was \$125.00? A. Yes, sir.

Q. In 1902, Mr. Pemberton, what proportion and per cent. of the binder business in Marshall and vicinity was done by the Milwaukee, the McCormick, the Champion, and the Osborne Companies? A. In 1902?

Q. Yes, sir; what per cent. of the business, as a matter of fact they practically did all the business? A. Yes, sir; they were all represented there.

Q. And as a matter of fact they practically did all the business in the mower lines? A. Yes, sir.

Q. Now you say that the only independent company now represented in your city is the Acme? A. Yes, sir.

Q. When did the Acme Company enter the Arena? A. Well this year.

Q. You handle that? A. No, sir; I do not.

Q. How many Acme machines were sold this last year? A. In my town?

Q. Yes, sir; and vicinity? A. Some six or seven in my town.

Q. What per cent. of the binder business, this past season in Marshall and the country which it is tributary thereto, was done by the International Harvester Company of America with the McCormick and Plano and Osborne machines? A. You speak of my town or in the vicinity?

Q. In your town and that territory which it naturally serves as a trade center? A. I don't know, I judge 85 per cent.

Q. Now you handle some other International Harvester Company of America lines besides binders and mowers? A. Yes, sir.

Q. They are harrows and rakes? A. Yes, sir.

Q. And manure spreaders? A. Yes, sir.

Q. And Tedders? A. Yes, sir.

Q. And Gasoline Engines? A. Yes, sir.

Q. And Cream Separators? A. Yes, sir.

Q. Since 1902, have you handled them since 1902? A. No, sir; not since 1902.

Q. Since you handled these other lines of the International Harvester Company of America besides binders and mowers, has there been any increase in the price of them? You take the harrows? A. Yes, sir; I judge about the same as other lines.

Q. You handle along with these lines the lines of other companies? A. Yes, sir.

Q. About the same thing? A. Yes, sir.

Q. Do you handle any wagons made by the International Harvester Company of America? A. I have handled them, I am not handling them now.

Q. What wagon do you handle? A. I handle the Weber wagon.

Q. What others do you handle besides the International Harvester Company of America make? A. The Bettendorf.

Q. Any others? A. No, sir.

Q. Up to what time did you handle these wagons? A. Probably 1906 or 1907.

Q. You have not handled them since that time? A. No, sir.

Q. When did you commence handling these wagons? A. The Weber wagon?

Q. Or any wagon offered by the International Harvester Company of America? A. Two or three years ago, up to the present time I have handled them three or four years.

Q. You commenced in 1906, and handled them up to the present time? A. Yes, sir; I am not handling the Weber wagon this year.

Q. You are handling the Bettendorf this year? A. No, sir; last year.

Q. Up to the time you handled them, what was the increase in the price of them, what was the price in 1906 of the Weber wagon?

A. I think I bought it at \$56.00.

Q. What is the price to the agent last year? A. Well the last I bought were about \$62.50.

Hon. Selden P. Spencer, counsel for respondent:

Q. What year was that? A. Last year in 1908, 1907 was the last I bought.

Examination resumed by Hon. James G. Blair:

Q. Now the Bettendorf, what was the price to you of that wagon when it was first sold to you? A. \$62.50.

Q. What was the price when you quit handling it? A. I don't know.

Q. Was it more or less? A. It was more, I don't know the price, I did not try to buy, I only handled them one season.

Q. What did you say was the price of the International Harvester mower to the agent at the present time? A. It was about, well take the five-foot mower, about \$38.00. The ordinary price, that is subject to a discount, though.

Q. This Wood contract, the contract you made with the Wood binder you sold no binders to them? A. No, sir; they did not ship them in time for me to get them in for the harvest, and I cancelled the order.

## RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is the total amount of your business in agricultural implements and machinery? A. \$80,000.00 to \$100,000.00.

Q. Where is Mr. Rea, the president of your company? A. He is in Marshall today.

Q. Is he making arrangements to go away? A. Yes, sir.

Q. Where is he going? A. To Old Mexico.

Q. When does he expect to leave? A. I don't know just when, it depends on the weather, he is subject to rheumatism.

Q. You are his general manager? A. Yes, sir.

(Witness excused.)

Hon. Theo. Brace, Commissioner:

Q. We will take a recess at this time until 9 o'clock a. m. tomorrow morning.

Wednesday morning, December 1st, 1909.

IRA E. ADAMS, of lawful age, being duly sworn upon his oath, testifies as follows, on behalf of the respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is Ira E. Adams? A. Yes, sir; Ira E. Adams.

Q. And your residence is? A. Sarcoxie, Missouri.

Q. Jasper county? A. Yes, sir.

Q. How far is Sarcoxie from here? A. Well Judge, I don't know, just from the way you figure it.

Q. I want to fix it for your mileage? A. It is 18 miles east of Carthage.

Q. What is the mileage from Carthage?

Hon. Theo. Brace, Commissioner:

You have the point, you can figure it up.

Q. You are the Mayor of Sarcoxie, I believe, Mr. Adams? A. Yes, sir.

Q. What business are you in Mr. Adams? A. I have a general supply store, handle vehicles and implements and machinery.

Q. How long have you handled the Harvester line? A. I believe since 1901, I began business.

Q. You have been in the business ever since? A. Yes, sir; I have owned the business ever since, two years I was manager of the bank, I had supervision of the business at the time.

Q. You are familiar with the agricultural implements and the Harvesters and the Business? A. Yes, sir.

Q. What business were you in before 1901? A. I came off of a ranch in West Texas.

Q. Between 1903 and 1908, was there any increase in the price of harvesters in the harvester line of grain and corn and mowers, and for the season of 1903 and up to the season of 1908? A. I think not, there came an increase I forget just what time, it was a couple of years ago.

Q. For the season of 1908, in the year 1907? A. Yes, sir; no increase before that.

Q. What line did you handle? A. The Deering, the Milwaukee, and Plano.

Q. What mower did you handle? A. The Deering principally, and the Osborne and Milwaukee.

Q. Is the Acme handled in your territory? A. Yes, sir; we have an agency there.

Q. Did you ever handle the Acme? A. No, sir.

Q. How long has it been handled there? A. I cannot say as to that. One or two years, there has been another agency there off and on all the time I have been in business, I could not say just what years which ones there has been.

Q. Mr. Adams, take the price of farm implements, tools and machinery, outside of the harvester line, and what has been the course of the prices in it from 1903 to now? A. It is gradually upward, rapidly.

Q. Well what per cent. on the average, what would you say was the per cent. in increase of prices outside of the Harvester line? A. From 16 2-3 to 20 per cent., that would be the average, some goods have advanced as much as 30 to 40 per cent. and others have not advanced as much, and I will take the average to be about 16 2-3 to 20 per cent.

Q. In the Harvester line, I will ask you to say if there was any increase from 1903 to 1907, until for the season of 1908? A. No, sir; no increase.

Q. What was the general per cent. in increase of binders that time, do you remember? A. Taking the discount off, I would say \$5.00, that was all the increase there was to the farmer, \$5.00 to the binder.

Q. What per cent. would that be? A. The binder cost \$100.00 to \$105.00 before.

Q. About five per cent? A. Yes, sir.

Q. How was it in the mower? A. Well the selling price to the farmer increased from \$45.00 to \$47.50. \$2.50 was all the increase to the farmer if my memory serves me correct, I think that is correct.

Q. Now take harrows, what has been the increase in prices of harrows to you from 1903 to 1908 or now? A. The harrow we paid \$8.40 for at that time.

Q. In 1903? A. Yes, sir; and along there, I think we pay \$9.50 now for.

Q. What would be the increase? A. It would be an increase of \$1.00 to \$1.10 a piece.

Q. What per cent? A. From 12 to 14 per cent.

Q. How about the increase of prices in the cast material such as plow points? A. The plow points and cast material have advanced. The straight advance at the present time from the price in 1903 of 30 and 40 per cent.

Q. Go ahead? A. The plow points sold for 30 cents in 1902 and 1903, it now sells for 40 cents.

Q. What has been the increase in price of harrows? I speak of these, how about cultivators? A. Well the cultivator price is from \$15.75 to \$16.85, and that would be about \$1.50 on the cultivator.

Q. How about spring tooth harrows? A. Well you take in spring tooth harrows, the advance has been considerably higher, I believe I remember that our spring tooth harrows cost us four or five years ago 30 cents a piece, we are now selling them 40, they cost us 40 now and we pay our freight.

Q. What has it been in your territory in wagons? A. The increase has been tremendous in most lines of wagons, it has been from \$55.00 to \$65.00 or \$67.50 and some \$68.00 wagons. I will say this Judge, I believe if it had not been for the International Harvester Company of America buying out the Weber plant—

Hon. Charles G. Revelle, counsel for Informant:

We object to the witness arguing the facts.

Hon. Theodore Brace, Commissioner:

Do not give your theories, speak of the fact.

Q. State what has been done in regard to the Weber wagon? A. The Weber wagon is a wagon that is sold today and the International Harvester Company of America has kept the prices down on the wagon business considerably.

Q. Do you handle the Weber wagon? A. Yes, sir; I handle the Weber wagon, I did not handle it before the International Harvester Company of America bought it, they did not own it then.

Q. Do you know what the increase was? A. From \$60.00 to \$64.00 I believe, about \$4.00.

Q. And in what years? A. In the last five years while the increase in some other wagons has increased \$12.00.

Q. The number of competitors in wagons, is it larger or smaller? A. The number of dealers in our town or through the country.

Q. Through the country? A. There are quite a number of wagon dealers.

Q. Mr. Adams, were there many Acme sold in your territory? A. A. Many Aemes?

Q. Yes, sir. A. I think there was only one sold this year, and they returned it on account of the fact they could not get repairs for it.

Q. Why not? A. They did not have them and had to send to the factory after them.

Q. They came through you? A. No, sir; through the local agent. They had to bring the binder back and hauled it to the agent and bought one from us; I instructed our boys to give him all the



assistance on the binder, not to kick the fellow because he was down, he brought it back and we sold him one of our binders, I think the binder is standing near the public square now.

Q. What is the effect of the competition you have in your territory on the Harvester line and agricultural line, what is the general effect of the competition which you have? A. Now if I understand your question correctly, the competition on all classes of goods is as keen or keener than as ever before, we have got to get up and rustle for everything we get.

Q. Who fixes the price you sell to the farmer? A. I do, I am the manager.

Q. Is there any difference in the course of the prices in fixing of it to the consumer in regard to the harvesting lines from what it is in regard to stoves or plows or any machines you sell in your store? A. No, sir; I figure a legitimate profit on everything and tell the boys to get the trade.

Q. Is there any difference in the competition in the harvester line and what you have in stoves? A. No, sir; not a thing, if I cannot meet the price and persuade the man to buy it, he buys somewhere else, the same if I sell him a stove, if I can meet the other man's price I sell the stove, and if I can meet the price on the binder I sell him, persuade him I can sell it to him, it is the same rule.

Q. What has been the course of prices in regard to repairs in your territory between 1903 and now? A. Now repairs for what?

Q. In the binder line or the Harvester line? A. Well I will say considering the repairs, the course has been down very much, some few repairs have cost more now than they did five or six or seven years ago, but these repairs are made better and stronger, more material in them, which taking into consideration the repairs are better, and the farmers tell me much better. We have less complaint than ever before about the repairs.

Q. The repairs generally used by the farmer, those things most often called for, I will ask you if there has been any increase in price in them since 1903? A. Nothing unless the repairs were made stronger and more material used. Some repairs such as guards have been made stronger, more material put in them. In these cases I sell a man two or three guards, they are a little bit higher but there is more material in them and better.

Q. Has the per cent. in increase been as much as the amount of material extra that has gone into them? A. I think not.

Q. What is the amount of your sales of agricultural implements, tools and machinery? A. In the neighborhood of \$40,000.00 per year.

Q. What proportion of that is represented by the goods of the International Harvester Company of America? A. I will say in round numbers \$6,000.00.

Q. About \$6,000.00 you say? A. Yes, sir; \$6,000.00.

Q. Of that what has been the proportion of the sales of the binders and mowers and harvester line? A. Just binders and mowers, does that include repairs?

Q. No, sir; just binders and mowers? A. Well about \$2,000.00.

Q. How much in repairs do you deal in in a year? A. I think our repair bill this year was \$600.00.

Q. What is your total sales of everything you sell in your store in dollars and cents, I mean in any manner in agricultural lines? A. We deal in agricultural machines and implements.

Q. Is \$40,000.00 then your total figures? A. Yes, sir; that includes everything, that is in round numbers, I could not say exactly.

#### CROSS-EXAMINATION.

By Hon Charles G. Revelle:

Q. What binders and mowers did you handle in 1902? A. Well we contracted with the Milwaukee Company for their binder and then there was a young man by the name of Lewis that wanted to take the business and run it, I think he paid us \$200.00 if I remember correctly, we turned over the business to him and he had to work with that, we were one of the agents.

Q. You were the agent for the Milwaukee? A. Yes, sir.

Q. Is that the only machine that you were handling in the way of a binder or mower in 1902? A. Yes, sir.

Q. What other binders or mowers in addition to the Milwaukee were sold in your community in 1902? A. The Deering binder and mower was sold.

Q. Alright. A. Our competitor had that.

Q. What other? A. Well I do not remember whether any other binder was sold or not, I think a man had the repairs for the Osborne, I will not be sure.

Q. You are not very sure whether the Osborne binder and mower was sold? A. There may have been a sample there, I am not sure.

Q. You are positive? A. That the Deering was sold?

Q. You are positive that the binder and mower business done in your community in 1902 was done by the Milwaukee, the Deering and Osborne collectively? A. I believe that is correct.

Q. Now what machines are handled in your community? A. Now?

Q. Yes, sir; first I will say what machines were handled in your community in 1907? A. That year before last?

Q. Yes? A. I believe that the Minneapolis was handled there, I will not be positive about that, the Minneapolis has been handled one or two years by a man by the name of Justice, who now uses the Aeme.

Q. Well what others? A. The Deering.

Q. In 1907? A. Yes, sir.

Q. The Deering is handled and the Milwaukee? A. The Deering principally.

Q. Now in 1907, what part of the binder business was done by the Deering and Milwaukee machines? A. Why nearly all of it that was done.

Q. You would say nearly 90 or 95 per cent? A. Yes, sir.

Q. How about the mower business about the same number? A. Yes, sir.

Q. What part of the binder business is done in your community now by the International Harvester Company of America with its other machines? A. Well as I stated a while ago, we sell every binder that was sold in our town this year, possibly one Acme was sold but was returned.

Q. Then they have done all the business this year on the binders? A. Yes, sir.

Q. How about the mowers? A. I would not be sure whether the other man sold his sample mower or not.

Q. How many did you sell? A. 22 I think, I believe so.

Q. Your impression is the other man did not even get rid of his sample? A. He may possibly have sold one mower.

Q. You do not find him a very active competitor of yours? A. Well he does his best.

Q. And his best with the independent machine does not amount to very much when you are handling the International Harvester Company of America goods, that is true? A. Of course you will allow me the privilege of saying if I had the independent machine and he had the International Harvester Company of America machines, I would sell some of the machines, of course you will pardon that allusion to myself of selfishness.

Q. Then in your community the binders and mowers you sell are not sold according to, and because of the merits of the binders and mowers, but because of your activity and business standing in that community? A. I would answer that question this way, that is true in this that I have always tried to get the best goods on the market and work them for all there was in it.

Q. Could you take the Acme machine in your community and do 95 per cent of the entire business when you were competing with the Deering, the McCormick and other binders of the International Harvester Company of America? A. If they make me as good a binder.

Q. Making their binders as they now have? A. If they give me as good a repair system as the Deering, and make me as good a machine.

Q. Make as good a machine? A. Yes, sir.

Q. I do not mean that, do you know anything about the Acme binder? A. I could properly say, no, sir; not much.

Q. Did you ever see one to look over it and examine it? A. Yes, sir; it looked like a pretty good binder.

Q. Is that as good a binder as the Deering? A. I do not think so, if I did I would get it and sell it.

Q. You do not think you could take any independent binder now and compete successfully with the International Harvester Company of America binders and mowers as they are now made? A. I believe I would answer that question, I do not believe I could, I do not think

they are made as good and the repair system is not as good as the repairs of the International Harvester Company of America.

Q. Do you know you can get all the repairs of the Johnston and Acme that you wanted by handling their machines? A. The agent down there could not.

Q. Do you know that either of these companies refused to send you repairs on a commission plan? A. No sir, I know he sold a man a binder and wanted the repairs and could not get them, when he sent to Kansas City and he could not get them, and had to send to the factory and before the repairs could get there, the man's wheat was wasting in the field. And he had to bring it back and——

Q. That is the man that could not sell but one machine? A. Yes sir.

Q. By reason of not having any machines down there he has only a few repairs? A. I don't know.

Q. Do you not mean to state the Johnston or Acme will not furnish the agent with as many repairs as he wants? A. I do not speak of that. I know nothing about their repairs.

Q. If they will furnish repairs the same manner as the International Harvester Company of America furnishes them, there would be no difference from the standpoint of business in that respect as far as repairs were concerned? A. No, sir.

Q. Then eliminating that feature could you take the Acme or Johnston binder and compete with the International Harvester Company of America binders in your community? A. Well as I said a while ago, I do not think a person with another binder as high as theirs and if they make as good a machine as the International Harvester Company of America did, then I could compete with them.

Q. I am asking you now from your general knowledge, you say you have fierce competition with your general knowledge and your knowledge of the demands of your customers, could you take the Acme or Johnston binder as now made and successfully compete with the International Harvester Company of America binders in your community? A. I would have to say I don't know.

Q. Now where is this fierce competition that you spoke of in your community, who were your competitors? A. Why in the binder business a man by the name of Pink Justice, I did not speak of its being so fierce.

Q. Did you not state the competition was as sharp as it ever was and as strong as it ever was? A. Yes, sir; in that sense.

Q. Who are your strong competitors? A. This man Justice.

Q. What does he sell? A. He sells now the Acme, I don't know whether he has had the Wood, he had the Minneapolis.

Q. He sold how many Acmes this year? A. One this year, that was returned.

Q. You sold how many? A. I sold eleven I believe.

Q. That is binders? A. Yes, sir.

Q. That is the only competition you have? A. Yes, sir; in Sarcosie.

Q. Now in 1902, the Milwaukee and the Deering machines were

both leading machines in your community, were they not? A. Well the Milwaukee had been a leading machine in our community for several years. The Deering was introduced there in 1902, possibly there had been an extra Deering sold before that time, I don't know very much about that.

Q. There were a good many of each of these machines sold in 1902? A. I think possibly 20 or 25 had, somewhere along there, that is approximately now.

Q. Now you mean to say that competition now between you and the only man who sells one machine a year and gets it returned on him is as sharp as between the Milwaukee and the Deering where each of them sells 25 machines? A. Yes, sir; the fact we did not sell more binders was because there was no demand for them, the wheat crop was short.

Q. How do you reconcile the fact that you made sales of 11 or 12 and the Acme man made one? A. I know my customers and our trade.

Q. Is it not a fact that the Acme machine is in a different class to the binder you sell and an inferior machine? A. I could not say as to that, I have never studied mechanism of the Acme binder to know.

Q. Did you ever hear of any field trials given before 1902 in order to decide the merits of the different machines? A. I do not think I ever had a field trial in our community, I do not think our firm has.

Q. When did you move to the town where you now live? A. To Sarcoux?

Q. Yes, sir? A. I probably moved there about January 1st, 1901, I owned an interest in the business from January 15th.

Q. Before 1901 as to the competition between these independent companies, you know nothing about that? A. No, sir; I know nothing about it.

Q. Now you say the International Harvester Company of America has kept down the prices on their wagons? A. You want my opinion?

Q. Do you know? A. It is my opinion they have.

Q. Have you bought any of their wagons? A. Yes, sir.

Q. Do you handle them now? A. Yes, sir.

Q. You can buy their wagons cheaper than you buy any other wagon of practically the same quality? A. I can.

Q. How much cheaper? A. \$4.00 cheaper.

Q. Do you know the price of the Peter Schuttler wagon? A. Not at the present time, we do not handle it.

Q. Do you know what increase the International Harvester Company of America have made in the price of their wagons in the last three or four years? A. I do not think I can say positively.

Q. It has been a very small increase, has it not? A. I think possibly about \$4.00 in the last four years as near as I can remember. I will not speak that positively.

Q. During that same period, do you know what increase has been made by other companies? A. Yes, sir; I do. If you will excuse

me for referring to a paper I jotted down the price that is made for, that is my fixed list price in 1906. We paid on the basis of \$55.00 for 3 1-4 wagon that we pay now \$65.00.

Q. You paid how much? A. \$55.00 and \$56.00. They have increased about \$8.00.

Q. About \$8.00? A. Yes, sir; twice as much as the International Harvester Company of America.

Q. Now the prices are you familiar with the prices of raw material that goes into the manufacture of wagons and farm implements? A. Well to some extent, I am not an expert on that, I try to keep in touch with the current price.

Q. You know as a matter of fact the price on the hard wood or on timber that goes into the manufacture of a wagon has increased more, greater, in the last three or four years, than the price on any other raw material, do you not? A. That depends on the price hard wood has increased.

Q. Well what per cent? A. Well I should judge ten per cent.

Q. Do you know it has increased from not less than 40 to 60 per cent, the price of material that goes into the wagon? A. No, sir; I do not think it has increased that much? Q. Do you know how much it has increased, have you bought any raw material? A. No, sir; I do not handle raw material or anything in that line.

Q. Now is there any other implement that you know of that the International Harvester Company of America has kept the price down on? A. Well you objected to my opinion, I will state it positively, that I make it as positive as anything I can, that the International Harvester Company of America has saved the farmers thousands of dollars in keeping the price down on all kinds of machines.

Q. Will you please give me the name of any other kind of a machine they have not increased as much on as the independent company, will you name some other implement outside of the wagons on which the International Harvester Company of America has not made as much increase on price as their competitor? A. Well I do not think they have increased the price of spring tooth harrows as much as their competitors.

Q. Now what else? A. Now lets see what other goods; they have reduced their price on cream separators. Their price has not increased on disc harrows as much as several other disc harrows I know of.

Q. What else? A. I do not call to mind just now, possibly if I was given a few minutes I might recall.

Q. There might be a few others, that you cannot recall? A. Yes, sir.

Q. Do you know anything of a number of competitors that the International Harvester Company of America has on wagons in the United States? A. Well I only have an approximate idea, I should say 20 strong competitors.

Q. 20 other strong competitors? A. Yes, sir.

Q. And several hundred other competitors? A. Yes, sir; I would put it 20 leading competitors.

Q. That have kept the prices down on wagons? A. Yes, sir, I think so.

Q. Do you know how many competitors they have on binders? A. I think five.

Q. In Missouri, do you know how many in Missouri? A. Well the Wood, the Acme, the Minneapolis is three.

Q. And the Johnston? A. Yes, sir; possibly four or five in Missouri.

Q. Do you know how many competitors they have on cream separators? A. I think four or five.

Q. Do you know that as a matter of fact? A. They have a good many, I take the Deely valve, the Sharpless and the United States; I speak of the leading separators.

Q. Will you say as a matter of fact that is all they have? A. No, sir; they have that many, if not more.

Q. You don't know? A. No, sir.

Q. Do you know how many they have on disc harrows? A. Four or five leading harrows.

Q. Is that all? A. Yes, sir; I should say five leading harrows in competition.

Q. Mr. Adams are you speaking from the standpoint of your knowledge or are you merely giving your impression that you gathered from local business? A. No, sir; my impression from the harrows on their general construction, I say on harrows, on disc harrows, possibly more than five of the leading concerns make disc harrows.

Q. Now will you give the names of what you say are the five competitors of the international Harvester Company of America in cream separators? A. Well there is the Sharpless, the Deely Valve, if I make a mistake and get Sears Roebuck, you will excuse me, and the United States, I think they make a considerable effort, they did in 1903, and the Standard, and possibly I think there is the Empire man, that is all that has come to my notice, possibly others.

Q. Now do you know of the American Separator Company? A. I have no knowledge of the American, possibly it has come under my observation, I do not remember.

Q. You mentioned the Standard? A. Yes, sir.

Q. Did you ever hear of the Omeag Separator Company? A. It seems to me like that is the mail order separator, I would not be positive.

Q. How about the Smith Manufacturing Company? A. They make, I don't know about their separators.

Q. This company makes what? A. I think Smith makes—

Q. Do you know about the dairy separators? A. I have no knowledge of it.

Q. Or the Davis? A. I have no knowledge of it.

Q. Or the Iowa Dairy? A. I have no knowledge of it except it is a catalogue separator.

Q. Do you mean to say it is only a catalogue separator? A. No, sir; I say the only knowledge I have is that it was.

Q. You don't know then as a matter of fact they have about



50 competitors on cream separators? A. Well I should judge there are a great many separators, I don't know how many come in competition with the International Harvester Company of America, that would depend on the quality of the goods and prices.

Q. Now on the disc harrows, I believe you mentioned five? A. Five or more.

Q. Five or more? A. Yes, sir; possibly more.

Q. Now you say that in your opinion the general course on the prices of repairs had been downward since 1902? A. Considering quality; yes, sir.

Q. Well has there been any reduction made in the list price independent of the quality? A. I think so.

Q. On what repairs? A. If my memory serves me right, sections have been reduced considerably, I will not speak absolutely, but it is my recollection they were ten cents in 1901, 1902 and 1903, and are listed now 6 cents. However, that is the list price on them, we buy most of our stuff direct.

Hon. Theo. Brace, Commissioner:

Q. You mean in 1901? A. Yes, sir; 1901.

Q. They have been reduced? A. You can buy sections for these various machines manufactured by the International Harvester Company of America from other companies, can you not? A. We can buy them, but we cannot hardly sell them.

Q. They are made at least by other companies and can be adjusted and used on the International Harvester Company of America machines? A. Yes, sir; that is a fact.

Q. What else has there been a decrease on? A. Well considering the quality of material.

Q. I am talking about the list price.

Hon. Theo. Brace, Commissioner:

Tell about the list price?

A. If I had my catalogue I could tell, I don't know, I do not call to mind anything specific, if I remember Pitman boxes, the prices have been reduced materially if I remember correctly.

Q. These were also repairs that are made by other companies, and which can be adjusted to the machines of the International Harvester Company of America? A. As far as that is concerned you could buy almost any repair you want for a binder or cream separator to fit the International Harvester Company of America machine from these outside concerns.

Q. You do not mean to say all parts can be bought? A. I mean to say it is possible to buy all parts which is not—it is possible to buy any part of a binder or cream separator from the Independent Company they take these casts and mould them.

Q. You mean to say there is not such a difference between the parts that goes into the International Harvester Company of America machines and the Independent machines? A. You are confusing independent binders from the independent manufacturers, I said, it is possible to buy from the independent manufacture, for instance, Herschel makes parts you can get almost anything you want from them.

Q. You cannot buy them from the independent harvesting machine companies? A. No, sir; I never tried that, I am speaking of the independent manufacturers, it is possible for them to make repairs for any machine they want to make them and sell them.

Q. Will you state that on an average that the prices have been reduced on repairs since 1902? Take their entire list of repairs that it has been reduced? A. No, sir; everything else has gone up.

Q. There is a slight increase on the average if you take them all together? A. No, sir; I think they remain stationary, practically, some have been put up and some have been reduced, that is my opinion.

Q. What do you sell that six-foot binder to the farmer for, what is your regular price at which you offer it? A. I have the six-foot binder at \$125.00 and \$120.00 before the raise.

Q. Is that the cash price? A. Well we cannot have a uniform price, if you have been in business you will know that, we cannot have a uniform price, you take a man——

Q. We can get along lots more quicker and not make it so hard if you will answer my questions?

Hon. Theo. Brace, Commissioner:

Just answer the question, please.

Q. I am asking you if that \$125.00 is your cash price? A. Yes, sir.

Q. What is your regular time price to sell for, for your six-foot binder? A. We do not make any great difference in time price for the reason we buy all of our binders, well we have a commission contract, we pay for them ourselves, we sell them and take their notes.

Q. What is your time price? A. \$125.00.

Q. That is your time price, you make no difference in cash and on time? A. Practically not, sometimes we do, but not always, it would not be universal.

Q. What is the price at which you offer the mower? A. \$45.00 cash.

Q. What is your time price? A. \$47.50.

Q. You make a difference there on time and cash? A. Yes, sir; we make more of a difference on mowers than binders.

Q. You stated there had been an increase in the price of binders of one five per cent, is that correct? A. Well I should not say five per cent, I said five dollars.

Q. What do you pay for the six-foot binder in 1902? A. Cash \$95.00.

Q. What do you pay now? A. Cash \$100.00.

Q. Is that the cash price made to you? A. Possibly a few cents on that. I think a \$107.40 or 50 cents with five and two off, which makes it practically \$100.00.

Q. Your price is \$107.50 with five and two off? A. Yes, sir.

Q. That makes \$100.07 in 1902, the company included in the \$95.00 price, the trucks, the transport, did they not? A. I will not be positive about that.

Q. They do not do it now at \$107.50? A. I will not be positive about that.

Q. Did you ever buy any? A. Yes, sir; my mind is not clear on that, I will not say.

Q. You don't know as a matter of fact they charged you \$3.00 more for the truck now than they did in 1902? A. I will not say whether it is in \$107.07 or not, I do not remember.

Q. Do you know what the price of the truck is taken alone? A. No, sir; we never sold them that way, I don't know what it is.

RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Are the repairs on which the prices have been reduced, are they all dealt in by the independent supply houses? Are they repairs the prices of which have been reduced and dealt in by the independent supply houses? A. I do not think so; no, sir.

Q. Some of the repairs the prices of which have been reduced from 1902 to now are dealt in by supply houses and some are not? A. Yes, sir.

RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Did I not understand you to say all repairs were dealt in by supply houses? A. I said it was possible.

Q. Did you not say all of them? A. We have bought sections and possibly guards and plates and Pitman straps from the independent houses, we have bought some few during my career.

Q. You stated to Judge Spencer when there was a decrease they were not dealt in by these supply houses, will you name only one piece of repair that there has been a decrease in by the International Harvester Company of America that is not handled by the supply house? A. I don't know as I can speak on that question.

Q. Then generally you don't know? A. I don't know what repairs the supply houses makes and what they do not make.

(Witness excused).

HENRY BECKMEYER, of lawful age, being duly sworn upon his oath, testifies as follows on behalf of the Respondent:

By Hon. Selden P. Spencer:

Q. Your name is Henry Beckmeyer? A. Yes, sir.

Q. You live at Norborne? A. Yes, sir.

Q. How far is that from here? A. Well it is 56 miles east of Kansas City.

Q. Kansas City is 158 miles from here? A. Yes, sir.

Q. Do you have to go to Kansas City to come here? A. It is the quickest way to get here.

Q. To go to Kansas City and then come here? A. Yes, sir.

Q. How long have you dealt in agricultural implements, tools and machinery? A. Since 1887.

Q. Twenty-two years? A. Twenty-two and a half years.

Q. What are the amount of sales of agricultural implements, tools and machinery you do a year in your business? A. We have two

houses and lumber and implements and hardware, stoves, and tinware. I judge our implement sales would run \$30,000 to \$40,000.

Q. What proportion of that is evidenced by the goods of the International Harvester Company of America? A. It varies considerably.

Q. On an average? A. I would judge our business with them would be \$6,000.00 per year.

Q. What proportion of your sales in agricultural implements is represented by binders and mowers? A. Our business will run over \$6,000, I expect our binder and mowers will run \$5,000.00.

Q. Was there any increase in your territory in the price in the harvester line of binders and mowers between 1903 and 1908? A. No, sir; I think not.

Q. What harvester lines do you handle? A. We handle the McCormick and Milwaukee.

Q. What other lines have you handled since 1903? A. Well we have handled the Milwaukee until four years ago we took on the McCormick.

Q. Did you ever handle any other line in your business? A. Yes, sir; we sold the Deering from 1886 to 1898.

Q. Any other? A. Nothing only the mower we handled the Standard made by the Emerson Manufacturing Company.

Q. Did you ever handle the Acme? A. No, sir.

Q. Has the Acme been handled in the last few years in your territory? A. Two or three years ago, they shipped in a sample of a mower and a binder in our town.

Q. Is it handled there now? A. No, sir.

Q. What has been the course in prices in agricultural tools and machinery outside of the harvesting line between 1903 and 1908 in your territory? A. There has been an increase.

Q. How much of an increase on an average? A. I judge about 20 per cent.

Q. That is the average? A. Yes, some more and some less.

Q. Do you handle the Weber wagons? A. Yes, sir.

Q. When did you start to handle it? A. Well about probably fourteen months ago, nearly fifteen months ago.

Q. Do you know what the Weber wagon was sold at by the International Harvester Company of America in 1904? A. No, sir; I do not remember in 1904, they tried to sell us wagons, in 1907, we did not know the wagons and did not buy any.

Q. Who fixes the price at which you sell your stuff at retail, your harvesters and binders? A. We do.

Q. Is it the same price as the others, the Champion agency in your town? A. Yes, sir.

Q. You handle what? A. McCormick and Milwaukee.

Q. Is the price of the binder the same for the Champion as the Milwaukee and McCormick? A. I could not say as to that; they sell very few Champions; in fact, they did not sell any this year.

Q. The Deering is also handled? A. Yes, sir; the Deering is also handled in our town; they sold a few.

Q. Do you know how your prices to the farmer, you recollect the prices that you have been asking? A. We sold the McCormick and Milwaukee at \$5.00 more than they got for the Deering or the Champion.

Q. You say there were no Champions sold last year? A. No, sir; the Deering this year was the same price as the others.

Q. How many did the Champion sell last year? A. Two or three.

Q. Your price was \$5.00 more than the Champion? A. Yes, sir.

Q. Is there any difference in the way you handle harvesters and mowers than the way you handle stoves or any other hardware you deal in? A. No, sir; not a bit.

Q. Is there any difference in competition with the stoves than you have in the harvesters and mowers? A. We have hard competition on all things; it is about as much one as the other.

Q. It is about as much on one as the other? A. Yes, sir.

Q. How about the prices of repairs that are most frequently used by the farmer between 1902 and now; what has been the course of it? A. I don't know as I could say that; I never looked that up; I did not think I would be interrogated on that. I have not noticed any material which sold, we sell a good many repairs; we sell sections at 5 cents a piece, and there are the rivets.

Q. What did you used to sell them? A. At ten cents, or three for twenty-five cents.

Q. So far as you know has there been any increase on any of them? A. Nothing except on competition or patent goods.

Q. How about the Milwaukee knotter, the clamp and knotter hooks? A. I am certain the hook was reduced.

Q. How about the clamp? A. I could not say.

Hon. Theodore Brace, Commissioner:

Q. Is that a binder appliance? A. Yes, sir.

Q. How about the discs on the knotter? A. The disc on the knotter; why I don't know as I could say about that whether there was any change on that or not; I never looked that up.

Q. How about the needles on the knotter? A. We sold so few I don't know; we only sold one.

Q. Do you know whether the knotter camp or hooks or disc that was on the knotter, or the needles on the knotter, are dealt in by supply houses? A. I do not think the knotter hook or disc is dealt in by outside concerns; if they are, we never bought any.

Q. So far as you know? A. No, sir.

Q. As far as the knotter hooks are concerned, they have been reduced since 1902? A. The Milwaukee has been reduced.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. What binders were handled in your community in 1902? A. 1902? Why, the Deering and the McCormick and the Champion and the Milwaukee.

Q. What mowers? A. The same mowers and the Standard in addition.

Q. What part of the mower business was done that year by the Deering, McCormick, the Champion and the Milwaukee, collectively?

A. Well, the mower business has been pretty well divided, I think.

Q. 1902 I am referring to? A. I could not recall that; as a rule we get our share of the business sold; I think in 1902 we did not do as large a mower business as some of our competitors.

Q. You were not handling the Deering, the Milwaukee and the McCormick in 1902? A. No, sir.

Q. What part of the mower business was done by these four companies when they were taken together, whether handled by you or other parties? A. Why, I could not say; they probably did the majority of the business; we sold a good many Standards.

Q. Were you handling the Standards at that time? A. Yes, sir.

Q. Would you say the sales of the Standard represented as much as ten per cent. of the total mower business in your territory? A. I would not say in 1902; I do not remember what that is; we quit them, we lost out on them, we sold a good many Standard mowers, beginning in 1907 or 1908 we had a big trade on them and the trade got away from us and got to the McCormick and Champion.

Q. Take the years 1900, 1901 and 1902, did these four companies that I mentioned, which later went into the International Harvester Company of America, do as much as 90 per cent. of the mower business? A. No, sir; I think not.

Q. What per cent.? A. I would not think that they exceeded seventy-five per cent.

Q. They did all the binder business? A. There were no other binders handled.

Q. What part of the binder business did the International Harvester Company of America with its various binders now do in your community? A. They do all of it.

Q. What part of the mower business do they now do? A. There are no other mowers handled outside of theirs.

Q. You say that your mower and binder business amounts to alone about \$5,000.00 per year? A. Yes, sir.

Q. Your competitors were the other International Harvester Company of America machines; also have good sales? A. Yes, sir; chiefly the Deering; they have very good sales.

Q. You say at one time there was the Acme binder and mower shipped in there as a sample machine? A. Yes, sir.

Q. Do you remember what year that was? A. I could not say positively; I think it was 1907; might have been 1908.

Q. Did it have to be shipped back? A. No, sir; the binders were sold; it stood on the lot a long time; it was handled by R. W. Backenston, and finally the Acme man came down there, they had a purchaser and sold it to him; my understanding is at a very low price.

Q. They sacrificed it to get rid of it? A. Yes, sir.

Q. That is the extent of the Acme business in your territory? A. Yes, sir; that was all that was done there.

Q. What price did you sell your six-foot binder, what is your regular price? A. \$130.00 in the last two years.

Q. At what price is your competitor selling the Deering this year?  
 A. Well, I really could not say as it is any more than last year; they offered binders five dollars less, but I think the price was the same this year.

Q. The same you are asking, \$130.00? A. Yes, sir.

Q. At what price do you offer your mower? A. Why, we sell our six-foot mowers at \$47.50.

Q. Is that the only size you handle? A. No, sir; the five-foot is \$45.00.

Q. At what price does the Deering mower sell? A. I don't know as I can answer that whether it is the same or not without, we had intended to sell our mowers at \$46.00 and \$49.00, but there was a price made at Carrollton, and we understood the Deering was the same price, \$47.50 on the Deering, and we put the price at \$47.50 to everybody.

Q. You say you handled the Weber wagon? A. Yes, sir; since August, 1908.

Q. I understood you to say in 1907 you had some price quoted to you on the wagon? A. Yes, sir; they were trying to sell us wagons.

Q. Do you know what they were asking for wagons at that time?  
 A. No, sir; I do not; I think the difference was \$2.50 or \$3.00.

Q. They were offering them at \$2.50 or \$3.00 less than they are selling them now. A. Yes, sir.

Q. Do you handle the wagons of any other Company? A. Yes, sir; we handle the Newton.

Q. To what extent has that Company increased the price during that period that the International Harvester Company of America has increased from \$2.50 to \$3.00? A. They had an increase of 10 per cent. during that time, and my understanding is they had another increase last May. We have not bought any.

Q. That ten per cent. represents what? A. I think about \$5.50.

Q. You have not been notified of any further increase by the International Harvester Company of America on wagons? A. No, sir.

Q. Now, you stated that handling machines, binders and mowers and fixing prices, you handled this line of business, the same as you handled other lines? A. Yes, sir; there is this difference, that in other lines you buy the implements outright and sell them as your own, and with binders and mowers and repairs you act as the agent and representative of the Company. For the past two years we have bought and paid for the binders and mowers outright.

Q. You are not acting as agent selling for them? A. We have a commission contract; it is our option to take whichever we choose.

Q. The machines are sent to you on commission, and at settlement time you pay the Company for them? A. Yes, sir.

Q. You do not pay for them when you get them? A. In the harvesters and mowers we have a settlement time.

Q. You do sell them as the agent for the Company? A. I think so.

Q. And in your other lines you do not act as their agent? A. Some we do.



Q. What lines? A. We have not handled them right recently, we had handled some repairs for the Nettie Plow Company.

Q. Do you handle their plows on a commission? A. No, sir; we have carried the repair stock the same as the International Harvester Company of America.

Q. What did you say the total amount of implement business this last year was? A. Our sales run over \$100,000.00, including lumber; we have not made any division; I think our implement business would run \$30,000.00 or \$40,000.00.

Q. And of that \$5,000.00 was binder and mower business? A. Yes, sir.

Q. And the other \$35,000.00, how much of that did you sell on the commission as the agent of the manufacturers; what part did you buy outright and sell as your own property? A. In recent years we bought most everything outright excepting some repairs, as I say.

Hon. Theo. Brace, Commissioner:

Q. I believe you stated you commenced business in 1882? A. No, sir; 1887.

Hon. Theo. Brace, Commissioner:

Q. What was the price of the binder then to the farmer? A. I don't know as I can recall in 1887, but in 1891 we had a big run on binders, we sold 199 binders, and we sold them at \$125.00 the six-foot.

Q. That was what year? A. 1891.

Q. How was it with the mower? A. We sold Standard mowers at that time, and I think they were either getting \$50.00 or \$60.00 for Standard mowers, but with that higher price mower we handled the Deering mower at that time. I think we were getting from \$40.00 to \$45.00 for the Deering, the Standard was the higher-priced machine.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revell:

Q. Did I understand you correctly, that was in 1891 or 1901? A. 1891.

Q. What price did you have to pay the Company for the binder when you were selling it for \$125.00? A. I think the machines cost us about \$100.00 delivered, at that time.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Have you got your prices with you, are you sure about those prices? A. No, sir; I am not sure; it is in our book.

Q. Was that not \$125.00 the price to you in 1891? A. In 1891?

Q. In 1891; that is 18 years ago. A. No, sir; I think not; I do not remember whether it was \$125.00 or \$135.00 we got for them.

Q. Could you see so as to be exact? A. No, sir; I think not; we do not carry these contracts; I could tell by hunting up the books.

(Witness excused.)

J. B. ROBINSON, of lawful age, being duly sworn upon his oath testifies as follows on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is J. B. Robinson? A. Yes, sir.

Q. You live at Nevada, Mo.? A. Yes, sir.

Q. How far is that from here? A. 158 or 160 miles.

Q. What harvesting machines do you deal in? A. Anything in the International Harvester Company of America line that I want; the McCormick.

Q. What binders do you sell? A. McCormick and Champion.

Q. What mowers? A. The McCormick; sold one Standard this year.

Q. Is the Acme sold in your territory? A. Yes, sir.

Q. Any others that you think of? A. No, sir.

Q. What is the total amount of your business a year? A. About \$75,000.00.

Q. What is the total amount of agricultural tools and machinery? A. About \$40,000 or \$50,000.

Q. What proportion of that is represented by the goods of the International Harvester Company of America deals in? A. I sold between \$5,000.00 and \$6,000.00.

Q. What part of your sales is represented by the binders and mowers; that is, what I mean to include— A. Yes, sir; that is what I mean to include, that is all I sold; I sold some wagons, disc harrows and other goods, but not any large amount; I have sold possibly a thousand dollars outside of the binders and mowers in a year.

Q. What wagons do you deal in? A. Well, in 1907, and including 1908, I had the Weber, now I have the Peter Schuttler, and was agent for the Kentucky a good many years.

Q. Do you know the price of the Weber wagon in 1904 when the International Harvester Company of America began to deal in it? A. No, sir; not in 1907.

Q. You could not go back to 1904? A. No, sir.

Q. What do you pay for it now? A. I pay about \$64.00.

Q. Is that by the car load lots? A. Yes, sir.

Q. Was there any increase, Mr. Robinson, in the price of harvesting machines, binders and mowers from 1903 to 1907, until for the season of 1908? A. The increase was made for 1907.

Q. In 1907; was it not for the season of 1908? A. Yes, sir; for the season of 1908.

Q. No increase in the price from 1903 to 1907? A. No, sir; there had not been any.

Q. What was the course of prices from 1903 in any of their farm implements, tools and machinery outside of the harvesters? A. It makes me so mad sometimes; I think it was about 20 or 25 per cent.

Q. Is that on the average? A. Yes, sir; it looks like it to me.

Q. Before 1903, was there any exclusive agency clause in your

contract? A. I do not remember that; I never dealt in those kind of articles; I never saw or heard it done that way; there might have been a clause; I heard it argued in a convention at Kansas City.

Q. Do you remember whether there was an effort to enforce it? A. I heard it was all over the country.

Q. I mean in your business? A. No, sir; not in my business.

Q. What competition do you have in your territory for the harvester line, between 1903 and now? A. I think my competitors which handle harvester machines are three or four, with myself.

Q. What is the effect of the competition in your territory on prices and on service to the farmer. A. The service from my competitor is very poor and the effect is to cut prices down, he keeps the prices down very much, pretty strong competition.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. At what price do you sell your six-foot binder? A. In our territory we sell the six-foot binder at \$135.00 on time and \$130.00 cash.

Q. \$130.00 cash? A. \$130.00 cash and \$135.00 on two years time and \$140.00 on three years' time.

Q. You say you never vary from your price? A. No, sir.

Q. Yet you say competition is sharp enough there to keep the prices down? A. Yes, sir; the competition is sharp, but I did not say as to keeping prices down.

Q. What effect does the competition have on the binders? A. Well, my competitor has to sell way below me to sell at all.

Q. What does he sell? A. The Acme.

Q. Now are any of the other machines of the International Harvester Company of America handled by any of your competitors? A. Not in our city.

Q. Any in your community? A. Yes, sir; all around in the county.

Q. Your competition is principally with the other agents of the International Harvester Company of America, is it not? A. Well, in the county it is.

Q. You say you sell about how many binders and mowers? A. We do not sell many binders, only three of the binders; we sell a good many mowers.

Q. How much in dollars and cents does your binder and mower trade represent this year? A. \$5,000.00.

Q. Do you know how many binders and mowers your competitors sold in your territory? A. Yes, sir; on account of cutting the prices down they sold more than I did.

Q. How many binders? A. Four.

Q. How many mowers? A. Eight or ten.

Q. Now, he did not do as much mower business as you did? A. No, sir; not at all; I sold 40.

Q. What do you have to pay for the mower? A. I pay about \$38.00 and \$39.00, subject to five and two off.

Q. What do you sell your mower for? A. \$45.00 and \$48.00.

Q. What do you sell these three binders for? A. Well, we had two cash, two of them are cash for \$130.00.

Q. And what was the other one? A. \$135.00.

Q. Well, now, if all of your mowers sold for \$48.00, which I believe you stated they did not, some were sold at \$45.00? A. Yes, sir; I sold some for \$45.00 and others at \$48.00.

Q. Then your binder and mower business represented \$2,000.00; wherein did you do the other \$3,000.00 business? A. In rakes and repairs and other stuff.

Q. You include those in our \$5,000.00? A. There are corn binders I left out; I sold a good many of those.

Q. What binders were handled in your community in 1902? A. I think in 1902 we had nothing against us in the city and town except the Deering.

Q. You were handling then what? A. The McCormick since 1900.

Q. What mowers were handled in your community in 1902? A. As well as I remember, going back the Deering.

Q. Then in that year the McCormick and the Deering did all the binder and mower business? A. Yes, sir.

Q. What part of the binder business was done by the International Harvester Company of America with its other machines in 1907, in 1907, what part of the binder and mower business? A. The binder business, well in 1907 I had very hard competition with the mower called the Keystone, and the International Harvester Company of America was not handled; yes, there was an outside agent that handled the Deering; I had the McCormick and Champion; in 1907 I think I sold more McCormick binders than anything else.

Q. Taking all the business that was done by the various agents of the International Harvester Company of America, what per cent. on the binders on the total business that was done by the agents of the International Company of America? A. Well, about two-thirds.

Q. About two-thirds? A. Yes, sir.

Q. And on the mower business about what? A. About the same.

Q. In 1907, what other binder did that one-third of the business not done by the International Harvester Company of America? A. I think they sold the Keystone.

Q. The Keystone binder? A. Yes, sir.

Q. You think that the Keystone did one-third of the business? A. Yes, sir; my competitor generally and frequently sells more than I do in these competing lines.

Q. Who is your competitor? A. Joe Hanna & Sons.

Q. Is there a representative of that firm here, have you seen him since you have been here? A. No, sir.

Q. You handle the Weber wagon? A. Yes, sir; I handled it in 1907 and 1908.

Q. What did you pay for it in 1907? A. I paid \$59.00.

Q. What do you pay for it now? A. No, sir; I paid about \$60.00, and I pay \$64.00 now.

Q. Do you handle a wagon of any other company? A. I handle the Schuttler wagon.

Q. What did you pay for that wagon in 1907? A. \$74.00, and now \$79.00. They give \$5.00 off for cash on the wagon.

Q. They also did that when they were charging you \$74.00? A. Yes sir.

Q. Do you handle any other independent wagons? A. Yes, sir.

Q. What one? The Kentucky.

Q. What did you pay for that in 1907? A. \$53.00.

Q. What do you pay for it now? A. \$62.00.

Q. Do you handle any other wagon of independent company? A. I have had the Columbus from the International Harvester Company of America people.

Q. No, sir; I am speaking of wagons not made by the International Harvester Company of America people. A. I have had this year a Montana wagon, manufactured by a Plow Company.

Q. Did you handle that in 1907? A. No, sir.

Q. This is the first year? A. Yes, sir.

Q. Are you handling any other wagon made by an independent company that you handled in 1907 except the one you mentioned? A. No, sir.

Q. What did you pay for the Columbus wagon, what do you pay for it now? A. That is just a little cheaper than the Weber.

Q. How much? A. I think \$2.00.

Q. Did you handle that in 1907? A. I had that the same time I had the Weber; I had both in the same car.

Q. What was the price of that wagon then? A. About \$56.00 or \$57.00 then.

Q. What is it now? A. I don't know the price now; I have not got it.

Q. There has not been a great increase on the price of wagons manufactured by the International Harvester Company of America as there has been by wagons made by independent companies? A. No, sir; there has not.

Q. Well, is that true also of harrows? A. I cannot refresh my memory at all what has been the increase on the general line of outside goods in the agricultural implement line against the International Harvester Company of America goods, I know if it had not been for the International Harvester Company of America business we had they would have had to have paid much more dearly for all of our implements.

Q. What kind of a deal did you have? A. They gave us good prices, they have not advanced the prices of machinery any more than they would have been if it had not been for them.

Hon. Theo. Brace, Commissioner:

Just answer the question.

Q. Will you state some other implements that the International Harvester Company of America has not made the same increase in prices as the independent companies have? A. Now, as I stated a while ago, I cannot call all of them together, it is my general impression that such is the case.

Q. Then you don't know, as a matter of fact, that the independent companies are keeping the International Harvester Company of America down or whether the International Harvester Company of America is keeping the independent companies down? A. It seems to me that the International Harvester Company of America is keeping the independent companies down on mowers. We want to sell anything we can sell.

Q. You say there never was an exclusive agency clause in your contract? A. I never had any.

Q. Did you read your contract? A. Yes, sir.

Q. You had a contract with them in 1904? A. I had a contract since 1900.

Q. You mean to say there was no exclusive agency clause from 1902 to 1905? A. In the Western Implement Retailers Convention we fought it so hard in 1900 and 1901 and 1902—I never paid any attention whether it was in mine or not.

Q. Did you sign up the regular printed form? A. I think some clauses were erased.

Q. That is one you insisted on being erased? A. A great many of us dealers did.

Q. You were not handling any other binders at that time? A. No, sir; nothing except the International Harvester Company of America line.

Q. You never at any time? A. Yes, sir.

Q. Since 1902? A. No, sir; no other binders; I sold any independent mower I wanted to.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. You got expert help for your machines in your territory? A. No, sir; we did not want any expert help.

Q. Is it available to you? A. Yes, sir; we could get it if we called for it.

Q. You did not need it? A. No, sir.

Q. You got an allowance for putting up the machines? A. Did not ask for any and did not get any.

Q. You put up your own machines? A. Yes, sir; and—

Q. Independently and sell at what price? A. That we feel like we can get.

Q. What is your recollection as to the price of repairs as to the course of the prices in regards to those repairs the farmer most usually needs? A. No material change has been made.

Q. In your territory? A. No material change? A. There has been a little difference in quality and a little increase.

Q. What is the quality? A. Oh, it is better.

Q. How about the accessibility? A. We always got them.

## RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. You always got them in 1902? A. I have always carried a good assortment of repairs.

Q. You never had any trouble in getting repairs on commission before 1902? A. No, sir.

Q. Your competitor that handles the Acme also handles the repairs on commission? A. Yes, sir.

(Witness excused).

J. R. SPARLING, of lawful age, being duly sworn upon his oath testifies as follows on behalf of the Respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. State your name? A. J. R. Sparling.

Q. Where do you live? A. Iantha, Barton county.

Q. How far is that from here? A. 225 miles from here.

Q. How long have you dealt in farm implements, tools and machinery? A. Since 1904.

Q. You have been in the business for only five years? A. Yes, sir.

Q. How much do you do a year? A. Approximately \$20,000.00.

Q. What proportion of that business in agricultural implements, tools and machinery is represented by goods of the International Harvester Company of America? A. Well, I would say from about \$4,000.00 to \$5,000.00 per year.

Q. What proportion of your business is represented by your binder and mower business? A. 30 to 40 per cent.

Q. Of the International Harvester Company of America business? A. Yes, sir.

Q. You stated that amount is how much? A. \$4,000.00 to \$5,000.00.

Q. And 30 to 40 per cent. of that is represented by binders and mowers? A. Yes, sir.

Q. What has been the course of prices of other farm implements, tools and machinery outside of binders and mowers? A. There has been a general advance.

Q. Could you say how much? A. Approximately 20 per cent. on the full line.

## CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. What binders and mowers are handled in your territory? A. Nothing but the McCormick at present, in 1904 the Champion was handled.

Q. You have no competition at all now? A. No, sir; not in the immediate towns, we have competition from neighboring towns.



Q. How far from it? A. Eight miles.

Q. What machines are sold there? A. The Acme and Deering.

Q. No Acme machines are sold in your immediate territory? A. No, sir; none I have heard of.

Q. Do you know of any Acmes sold at the other places? A. I heard two were sold and brought back, that is binders.

Q. You only heard of two being sold, and they were brought back?

A. No, sir; that was all that was mentioned by the farmers.

Q. Practically all of the binder and mower business done in your community is done by the International Harvester Company of America? A. Yes, sir.

Q. What price do you sell the six-foot binder? A. \$130.00.

Q. What price do you sell the mower? A. \$45.00 for five-foot and \$48.00 for six-foot.

Q. You do not vary from these prices? A. No, sir.

Q. You handle Weber wagons? A. Yes, sir; I handle this year one.

Q. You never handled them before? A. No, sir.

Q. Do you handle any other independent wagons? A. The Fish Brothers wagon.

Q. How long have you handled it? A. Since 1904.

Q. What did you pay for it in 1904? A. \$54.00.

Q. What did you pay for it in 1905? A. The same.

Q. What in 1906? A. I do not remember that year; I don't know as I bought any at that time.

Q. In 1907? A. In 1907 I paid \$60.50, I believe.

Q. How about 1908? A. I did not buy any, but I was quoted them, the wagon in car load lots, for \$66.00.

Q. This year? A. I have not gotten any so far.

Q. Now, what did you pay; what did you buy the Weber wagon for now? A. I disremember exactly, but I believe it was \$64.00; I am not positive; that is approximately correct.

Q. The International Harvester Company of America sells its wagons cheaper than the independent companies, do they not? A. I consider them as cheap or cheaper; I think for the quality they are cheaper.

Q. They have not made as great an increase in the last few years as the other companies? A. I could not say; I don't know anything about the price.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. You bought the independent wagon in 1904 for \$54.00? A. Yes, sir.

Q. Was that single or car load lots? A. Car loads.

Q. And 1908 the same wagon you paid how much? A. \$64.50.

Q. In your car load lots? A. Yes sir; in car load lots.

Q. And the Weber wagon in 1908 you think was \$54.00? A. Yes, sir.

Q. That was car load lots? A. That was a split car with the mowers.

Q. Do you remember what the price of that Weber wagon was in 1904? What it was quoted to you? A. No, sir; I had not gotten it until this last season.

(Witness excused).

JOHN O'BRIEN, of lawful age, being duly sworn upon his oath testifies as follows on behalf of the Respondent:

# DIRECT EXAMINATION.

By Hon. Charles G. Revelle:

Q. Your name is John O'Brien? A. Yes, sir.

Q. You live at Plattsburg? A. Yes, sir.

Q. How far is that from here? A. Well, it is 40 miles from Kansas City, north of Kansas City.

Q. Or 58 miles from Kansas City? A. Yes, sir.

Q. And from Jefferson City to Kansas City, how far is it? A. 158 miles.

Q. How long have you been in the implement and agricultural tool and machinery business? A. Well, along in 1888, I think I went into it.

Q. How long? A. 1888.

Q. About 20 years? A. Yes, sir; a little over.

Q. What harvesting machinery are you handling now? A. The Deering binder and Deering mower.

Q. What have you handled in the past? A. I have handled the Buckeye years ago when it was wood, and I have handled the Champion; I handled the Deering before.

Q. What mowers do you handle? A. The Deering at present.

Q. What have you handled? A. I have handled the Deering and Buckeye and Champion. Those are the only ones I have handled.

Q. What is the amount of business in agricultural lines in dollars and cents you do per year, the total amount of agricultural implements and tools you sell during the year? A. Between \$12,000 and \$14,000 per year.

Q. What proportion is represented by the International Harvester Company of America goods? A. I judge this year \$2,000.00.

Q. What proportion is represented by binders and mowers? A. I think probably there would be as much as \$1,500.00 worth of that in the binder and mower.

Q. Do you have expert help in your territory? A. At times, if I need them, they, if we happen to get in a close place.

Q. It is available for you? A. Yes, sir; they send me the men.

Q. Do you have to pay for it? A. No, sir.

Q. When you need the expert assistance in your territory it is available? A. Yes, sir.

Q. And without charge to the farmer? A. Yes, sir.

Q. How about the prices or repairs on the binders and mowers between 1903 and today? Especially those parts that are principally used by the farmer? A. They are cheaper, the sections and rivets and things like that.

Q. Was there any increase of price in the harvester line between 1903 and 1907 for the season of 1908? A. Well, there was a slight change.

Q. Between the season of 1903 and 1907 until for the season of 1908 there was a slight change in the binder and mower prices for 1908? I say before 1908? A. No, sir; they remained the same.

Q. What was the increase in per cent. in the price of binders and mowers for the season of 1908? A. About five per cent. on binders.

Q. How much on mowers? A. Two and a half per cent.

Q. What has been the course of prices on other tools and machinery outside of binders and mowers between 1903 and now? A. Well, probably 20 or 30 per cent. on the average.

Q. That is on the average? A. Yes, sir; of course, farm wagons would make it some more than that.

Q. They have increased or decreased? A. Increased.

Q. Do you handle the Weber wagon? A. Yes, sir.

Q. Did you handle it in 1904? A. No, sir.

Q. Do you know what the price was quoted in 1904? A. No, sir.

Q. What is the price now? A. My wagons cost me last December \$59.63, I think it was.

Q. You are sure about that price? A. I think it is f. o. b. Chicago; I had to pay the freight on it.

Q. That is in car load lots? A. Yes, sir; that makes the wagon cost me over \$64.00.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. What binder did you handle in 1888? A. I did not handle any binders those years, there was no binder trade.

Q. What was the first year you handled binders? A. I do not recollect the exact year.

Q. Did you handle them as early as 1895? A. Possibly I did; yes, sir.

Q. Well, do you remember, as a matter of fact, whether you did? A. I think I did; I am positive I did.

Q. What binder? A. The Champion binder.

Q. What price did you charge the farmer for the binder, the first one you remember of handling? A. I think the first binder I sold was a seven-foot, at \$145.00.

Q. How about the six-foot? A. It was probably \$2.50 to \$5.00 less; I do not remember of selling the six foot.

Q. Now, what were you selling the six-foot binder for in 1900? A. I do not sell any six-foot binders, my trade runs from the seven-foot to the eight foot.

Q. You never sold and six-foot binders? A. No, sir.

Q. What did you get for the seven-foot binder in 1900? A. Without the tongue trucks we sold them for \$130.00.

Q. That is for the seven-foot, \$130.00? A. Yes, sir.

Q. What did you sell them for in 1902? A. Well, I don't know; some years I did not handle binders at all; our trade is not very extensive on binders.

Q. From your general knowledge of the binder and mower business you know that from the time that you began handling binders and mowers down until 1902 there was a standing gradual decrease in the price, was there not? A. Well, it was not so much that as it was a fight there was on hands at that time; I can recollect one year when the binders were handled by different dealers, they made a fight for the business and they slaughtered the business so there was nothing in it for the dealer at all—

Q. What year was that? A. It was so long ago, lets see, it was along in 1890, I believe it was.

Q. In the year of 1890? A. Yes, sir.

Q. How was competition throughout 1901 and 1902? A. Well, it was fairly strong.

Q. Pretty strong then? A. Yes, sir.

Q. In fact, that competition for a number of years prior to 1902 had been pretty fierce between these independent companies, had it not? A. Well, I don't know as they fought any harder then than at the present time.

Q. Just answer my question, as a matter of fact, for four or five years preceding 1902, competition between these various companies was extremely sharp and fierce, was it not? A. Well, yes, sir; to a certain extent.

Q. And that competition which had been going on for a number of years was causing the prices on binders to be greatly reduced to such an extent there was nothing in it for the agent, is that not true? A. Well, I don't know as it was reduced any year, the agent did not get any profit for his labor.

Q. The farmer got his machine at such a low price that it did not leave the agent much of a profit? A. It was the agent's own fault.

Q. But that was the condition up to 1902, was it not? A. Well, I don't know.

Q. That competition had continued until the price of binders had gotten down to \$95.00 to the dealer, had it not? A. Not with the improvement they have got on them.

Q. They had not gotten down to that? A. Yes, sir; but the machine I sold in 1902, such improvements as it then had the price had been reduced to \$95.00 to the dealer.

Q. How do you figure that, f. o. b. Chicago? A. Yes, sir; I do not think that we ever bought for that money.

Q. What then did you get them for? A. They cost us right at the factory from Chicago, figuring the regular freight, they cost a little over \$100.00, and the man that sold for \$90.00, I don't know as the binder was sold for \$90.00.

Q. I am asking you the price to the dealer? A. That is the price to the dealer.

Q. You have your discount still have you not? A. It was done another way.

Q. What did you have to pay, what do you have to pay now for your binder? A. The binder will cost me this last year \$107.00 and something.

Q. And you say now the price quoted to you in the same way has never gotten below \$100.00? A. It has always been rutable to pay all the freight from the factories.

Q. You did that in 1902 the same as now? A. Yes, sir.

Q. You say the price never did reach \$95.00 before 1902? A. Not that I recollect of, that is figuring the improvements on them, these improvements were not on the machine in 1902.

Q. These improvements were not on the machine in 1902, there were such things on the machine as trucks, tongue trucks, Mr. O'Brien I think you ought to understand this question, take the binder now with the truck, the transport truck, what do you pay for that now? A. The transport truck?

Q. Yes, sir? A. Well they cost me, I have not bought any with the trucks you mean the transport trucks that go along the tongue that is the tongue truck.

Q. The truck that the binder is moved on? A. That is a different proposition, we might get that in connection with the price now.

Q. You mean the transport truck is now put in at \$107.50? A. Yes, sir.

Q. Have you ever gotten the six-foot binder with the transport truck for \$107.50 since 1908? A. No, sir.

Q. How do you know they put that truck in at that price? A. Well of course possibly that is figured extra.

Q. Well now don't you know they do charge you \$3.00 extra for it over and above the \$107.50 if you get it? A. Yes, sir.

Q. They do that do they? A. Yes, sir; I guess they do.

Q. Now before 1902 the price that was quoted you by the Independent Company included the transport trucks, did it not? A. Now I don't know, I never handled enough binders at the time to keep posted on these trucks.

Q. What binders were handled in your community in 1902? A. Well there was the Champion and the Deering and the McCormick.

Q. That all? A. Yes, sir.

Q. What mowers were handled? A. The Standard and the Champion and the McCormick.

Q. What part of the mower business was done in 1902 in your community by the Champion, and McCormick Companies? A. Well I sold the Champion mower about that time and the Standard mower was handled there and the McCormick had the lead of all of us.

Q. Would you say that the Standard mower represented as much as ten per cent of the mower business? A. I do not think it did, I think the McCormick represented the biggest per cent of it.

Q. Would the McCormick and Champion together do as much as 90 per cent of the business that year. A. No, sir; it would not.

Q. How much? A. About 75 per cent.

Q. And the Standard the other 25 per cent? A. Yes, sir.

Q. What part of the binder business in your community is now done by the International Harvester Company of America with its various machines? A. Practically all done by it.

Q. What part of the mower business? A. Practically all of it. (Witness excused).

Hon. Theodore Brace, Commissioner:

We will now take a recess until 1:30 p. m.

Afternoon session, Wednesday, December 1, 1909.

Hon. Selden P. Spencer, Counsel for Respondent:

We desire to offer in evidence on behalf of the respondent a copy of the license of the Milwaukee Harvester Company to do business in Missouri, dated, I think, April 5, 1892, a copy of which is attached to our answer which was originally filed in the case but never has formerly been offered in evidence. We now desire to offer the same in evidence and the same here appears in words and figures as follows, to-wit:

## STATE OF MISSOURI.

No. 237.

### CERTIFICATE.

WHEREAS, The Milwaukee Harvester Company, incorporated under the laws of the State of Wisconsin as filed in the office of the Secretary of the State duly authenticated evidence of its incorporation as provided by law and has in all respects complied with the requirements of law governing foreign private corporations,

NOW, THEREFORE, I ALEXANDER A. LESUEUR, Secretary of the State of Missouri, in virtue and by authority of law do hereby certify, that said Milwaukee Harvester Company is from the date hereof duly authorized to do business in the State of Missouri for a term ending December 12, 1931, and is entitled to all the rights and privileges granted to foreign corporations under the laws of this state and that the amount of the capital stock of said corporation is seven hundred and fifty thousand dollars and the amount of said capital stock represented in the State of Missouri is seventy-six thousand three hundred and eighty-seven and 50-100 dollars.

In testimony whereof, I hereunto set my hand and affix the great seal of the State of Missouri, done at the City of Jefferson this 5th day of April, A. D., eighteen hundred and ninety-two.

(Signed), A. E. LESUEUR,

(SEAL).

Secretary of State.

Hon. Selden P. Spencer, Counsel for Respondent:

### STIPULATION.

It also admitted by both sides, both counsel for informant and respondent that the name of the company was originally the Parker-

Dennet Harvesting Machine Company, (limited), and that it was organized December 15, 1881, under the laws of Wisconsin, and that its name was subsequently changed to the Milwaukee Harvester Company and that its name was subsequently changed to the International Harvester Company of America on the 5th of September, 1902, and that there was paid to the State of Missouri for its license to do business in Missouri the sum of \$62.50 on April 5, 1892, when it was licensed to do business in Missouri, and that this amount was paid for the tax and license fee required as a condition to proceed before inducing the license to do business in Missouri, and that annually since that time it has made its reports as required by law in the State of Missouri, subsequent to 1902, in the name of the International Harvester Company of America.

It is also stipulated and agreed that the McCormick Harvester Company was incorporated under the laws of the State of Illinois, September 11, 1879, and was licensed to do business in the State of Missouri, October 5, 1891, and cancelled its license to do business October 1, 1903.

It is also stipulated and agreed that the Plano Manufacturing Company was incorporated under the laws of the State of Illinois, in the year 1881, March 3rd, and was licensed to do business in the State of Missouri on February 11, 1892, and cancelled its license to do business in Missouri, October 9, 1903.

It is also stipulated and agreed that the Warder-Bushnell and Glessner Company was a corporation incorporated under the laws of Ohio on the 18th of October, 1886, and that it was licensed to do business in Missouri on October 29, 1891, and has made reports as required by law up to 1908, but has made no reports since then and has not cancelled in the Secretary of State's office its license to do business in Missouri.

It is also stipulated and agreed that the D. M. Osborne & Company was incorporated under the laws of the State of New York on April 29, 1875, and was licensed to do business in the State of Missouri on September 28, 1891, and cancelled its license to do business in Missouri on July 2, 1906.

It is also stipulated and agreed that the Altman-Miller & Company was incorporated under the laws of the State of Ohio in the year 1865, and was licensed to do business in Missouri on August 6, 1891, and cancelled its license to do business in Missouri on August 31, 1904.

Hon. Selden P. Spencer, Counsel for Respondent:

We now desire at this time on behalf of the respondent to offer and introduce in evidence the articles of Association of the Parker-Dennett Harvesting Machine Company, who is now the respondent, both the Articles of Association and also the amendments thereto, there have been one or two amendments, so we will have to introduce the entire Articles of Association. We will hand the copy to the Attorney-General and allow him to examine it.

Said Articles of Association as offered by Hon. Selden P. Spencer on behalf of the respondent here appears in words and figures as follows, to-wit:



**ARTICLES OF ASSOCIATION  
OF THE  
INTERNATIONAL HARVESTING MACHINE COMPANY OF  
AMERICA.**

Parker-Dennett Harvesting Machine Company, (Limited).

**ARTICLES OF ASSOCIATION.**

Article I. The undersigned, I, Holden Parker, Fred A. Dennett, and Hiram W. Conger, adult persons, residents of the State of Wisconsin, do associate themselves together for the purpose of forming a corporation under and pursuant to the provisions of the Revised Statutes of the State of Wisconsin, Chapter eighty-six, and the acts amendatory thereof.

The objects, purposes, and business of such corporation are and shall be the manufacture, purchase, repair, and sale of reapers, mowers, harvesters, binders and such other kinds of farm machinery and implements as the members from time to time shall determine.

Article II. The name of this corporation shall be Parker-Dennett Harvesting Machine Company (limited), and its location and principal offices shall be in the City of Milwaukee, but its factories may be located in the County of Milwaukee, within or without the limits of said city.

Article III. The capital stock of this corporation shall be one hundred thousand dollars (\$100,000.00), divided into one thousand (1,000) shares of one hundred dollars (\$100) each.

Article IV. The general officers of this corporation shall be a president, vice-president, secretary and treasurer, and there shall be a board of three directors. Each general officer and each director shall hold office from the time of his election and qualification until the next subsequent annual meeting of the stockholders, and until his successor in office shall have been elected and qualified. The general officers shall be elected by the Board of Directors at each annual meeting of the board.

Article V. The duties of the several general officers respectively are thus defined:

The president shall preside at all meetings of the stockholders, and at all meetings of the Board of Directors, shall decide all rules of order and practice at such meetings; shall sign all indentures, deeds, mortgages, releases, and instrument to which the signature of the president is usually requisite, and shall, with the other general officers, have general supervision of the business and affairs of the corporation.

The vice-president shall perform all the necessary and proper duties of the president in the latter's absence, may sign and execute all instruments and papers to which the president's signature is ordinarily necessary, with the same force and effect as if signed by the president, whether the latter be absent or not, and shall have such general management and active share in the company's business as may be agreed upon,

and perform such duties in connection therewith as may further be prescribed by appropriate by-laws.

The secretary shall keep the records of the corporation, and the minutes of the meetings of the stockholders, and of the Board of Directors, shall have the custody and duty of affixing the common seal and be responsible for its due and proper use; shall have principal charge of the ordinary correspondence and office business of the company; shall sign, attest and seal all instruments and papers to which the corporate seal shall be required, and shall, in connection with the treasurer, supervise and direct the proper keeping of the accounts and records of the business of the company, and shall perform such other duties as usually devolve upon like officers of mercantile corporations.

The treasurer shall have charge of the bills receivable and payable, collections and finances of the corporation, and with the secretary supervise the accounts kept of the same, and be held responsible for the financial management of the ordinary business, and shall render statements and give information at all reasonable times to the corporation and its general officers and directors concerning the same; shall make reports to the stockholders, at their annual meetings; shall have charge, with the advice of the directors, and to such extent as the by-laws may permit, of the loans and discounts, credits and disbursements of funds of the corporation, and shall perform such other duties as usually devolve upon like officers.

The offices of secretary and treasurer may be held by the same person.

The treasurer may delegate his duties so far as pertains to the details of business, to a cashier or similar officer, who shall be appointed by him with the advice and consent of the Board of Directors. He shall not, however, be deemed a general officer and shall not be a member of the Board of Directors. The president, vice-president and treasurer must be members of the Board of Directors, and all the general officers must be stockholders.

Article VI. Persons holding stock, according to the by-laws and the regulations of the corporation only, shall be members.

Article VII. The stock, property, affairs and business of such corporation shall be under the care of and be managed by said Board of Directors, who shall be chosen annually by the stockholders from among their number, at such time and place as the by-laws shall prescribe. The directors shall choose one of their number president, and another vice-president, and another treasurer, and the several other general officers may or may not be members of the Board of Directors, as shall be prescribed. In the meetings of stockholders each share of the capital stock shall be entitled, if duly represented, to one vote, and a majority of all the shares of capital stock outstanding shall be duly represented, in order to constitute a quorum to do business, but a majority of votes cast at any properly constituted meeting of stockholders shall be sufficient to pass any measure or resolution offered at such meeting and within its jurisdiction. In the deliberations of the Board of Directors, each director shall have an equal voice with every other director, regardless of his interest in the shares of stock; and the vote of two directors

shall be necessary to pass any measure or resolution pending before the board.

It is hereby agreed that the first meeting of stockholders of this corporation be held at the office of Parker, Dennett & Co., in the City of Milwaukee, on the thirteenth day of December, 1881, at 2 o'clock p. m., the requisite quantity of the capital stock being subscribed before that time. No certificate of stock shall be issued except the same shall be full paid, and no stock shall be transferred by any person liable to the corporation as principal debtor, and the corporation shall have a lien on the stock of every stockholder indebted to the corporation.

Article VIII. By-laws shall be adopted by the Board of Directors upon the vote of at least two of them. No by-laws shall be acted upon until the regular meeting of the board next succeeding the meeting at which it is introduced or proposed. All by-laws shall be recorded by the secretary immediately after their passage, in the minute book of the corporation, and shall take effect from and after such recording.

In witness whereof, the undersigned have hereunto set their hands and seals, at Milwaukee, this 12th day of December, 1881.

L. HOLDEN PARKER, (SEAL).

FRED A. DENNETT, (SEAL).

HIRAM W. CONGER, (SEAL).

STATE OF WISCONSIN, }  
MILWAUKEE COUNTY, } ss.

Be It Remembered, That on this 12th day of December, A. D., 1881, at Milwaukee, in said county, came personally before the undersigned, a Notary Public residing in said county, L. Holden Parker, Fred A. Dennett and Hiram W. Conger, known to me to be the same persons named in and who signed the foregoing Articles of Association of the Parker-Dennett Harvesting Machine Company (limited), and severally acknowledged the said articles to be executed by them as their free act and deed, for the purposes therein expressed.

Given under my hand and notarial seal.

A. G. MILLER,  
Notary Public, Wis.

(L. S.)

STATE OF WISCONSIN, }  
COUNTY OF MILWAUKEE, } ss.

L. Holden Parker and Fred A. Dennett, being severally duly sworn, depose and say they are two of the signers of the original Articles of Association of the Parker-Dennett Harvesting Machine Company (limited), and that the foregoing is a full, true, and perfect copy of said original articles and of the whole thereof.

L. HOLDEN PARKER,  
FRED A. DENNETT.

(Imp. Notarial Seal).

Subscribed and sworn to before me this 12th day of December, 1881.

A. G. MILLER,  
Notary Public, Wis.

(No. 40456).

Recorded December 12, 1881, at 5 o'clock p. m., in Volume "A" of Incorporations, on pages 345, 346, 347, 348.

Parker-Dennett Harvesting Machine Company,  
(Limited).

Amendments to Articles of Association.

State of Wisconsin,

City and County of Milwaukee.

} ss.

It is hereby certified and declared, that at a special meeting of stockholders of said corporation, duly called and held at its principal office in Milwaukee, amendments to the articles of association (as the same are now of record) were adopted and passed, of which the following is a copy, viz:

Resolved, That the Articles of Association of this corporation be and the same are hereby changed as follows:

Article 2 is amended by striking out the entire chapter as it now stands and inserting in lieu thereof the following:

Article II. The name of this corporation shall be Dennett Harvesting Machine Company, (limited), and its location and principal offices shall be in the City of Milwaukee, but its factories may be located in the County of Milwaukee, within or without the limits of said city.

Article 4 is amended by striking out the entire chapter as it now stands and inserting in lieu thereof the following:

Article IV. The general officers of this corporation shall be a president, vice-president, secretary, treasurer and superintendent, and there shall be a board of four directors; each general officer and each director shall hold office from the time of his election and qualification until the next subsequent annual election of the stockholders, and until his successor in office shall have been elected and qualified. The general officers shall be elected by the Board of Directors at each annual meeting of the board, or, if for the purpose of filling, at any called meeting, and such person accepting an office to fill a vacancy shall continue in office until the next annual meeting of the board.

Article 5 is hereby amended by striking out the entire chapter as it now stands and inserting in lieu thereof the following:

Article V. The duties of the several general officers, respectively, are thus defined:

The president shall preside at all meetings of the stockholders and at all meetings of the Board of Directors; shall decide all rules of order and practice at such meetings; shall sign all indentures, deeds, mortgages, releases and instruments to which the signature of the president is usually requisite, and shall, with the other general officers, have general supervision of the business and affairs of the corporation.

The vice-president shall perform all the necessary and proper duties of the president in the latter's absence; may sign and execute all instruments and papers to which the president's signature is ordinarily necessary, with the same force and effect as if signed by the president whether the latter be absent or not, and shall have such general

management and active share in the company's business as may be agreed upon, and perform such duties in connection therewith as may further be prescribed by appropriate by-laws.

The secretary shall keep the records of the corporation and the minutes of the meetings of the stockholders and of the Board of Directors; shall have the custody and duty of affixing the common seal and be responsible for its due and proper use; shall have principal charge of the ordinary correspondence and office business of the company shall sign, attest and seal all instruments and papers to which the corporate seal shall be required, and shall, in connection with the treasurer, supervise and direct the proper keeping of the accounts and records of the business of the company, and shall perform such other duties as usually devolve upon like officers of mercantile corporations.

The treasurer shall have charge of the bills receivable and payable, collections and finances of the corporation, and with the secretary supervise the accounts kept of the same, and be held responsible for the financial management of the ordinary business, and shall render statements and give information at all reasonable times to the corporation and its general officers and directors concerning the same; shall make reports to the stockholders at their annual meetings; shall have charge, with the advice of the directors, and to such extent as the by-laws may permit, of the loans and discounts, credits and disbursements of funds of the corporation, and shall perform such other duties as usually devolve upon like officers. The offices of secretary and treasurer may be held by the same person.

The treasurer may delegate his duties, so far as pertains to the details of business, to a cashier or similar officer, who shall be appointed by him, with the advice and consent of the Board of Directors. He shall not, however, be deemed a general officer, and shall not be a member of the Board of Directors. The president, vice-president, and treasurer must be members of the Board of Directors, and all the general officers must be stockholders.

The superintendent shall have charge of the manufacturing department, superintend and give directions to the foreman of each department; make purchases of stock, and see to its care and consumption, and have charge of shipments of machines and extras.

Article VII is hereby amended by striking out the entire chapter and inserting in lieu thereof the following:

The stock, property, affairs and business of such corporation shall be under the care of and be managed by said Board of Directors, who shall be chosen annually by the stockholders from among their number, at such time and place as the by-laws shall prescribe. The directors shall choose one of their number president, and another vice-president, and another treasurer, and the several other general officers may or may not be members of the Board of Directors, as shall be prescribed. In the meetings of stockholders each share of the capital stock shall be entitled, if duly represented, to one vote, and a majority of all the shares of capital stock outstanding shall be duly represented in order to constitute a quorum to do business, but a majority of votes cast at any properly constituted meeting of stockholders shall be sufficient to pass any meas-

are or resolution offered at such meeting and within its jurisdiction. In the deliberations of the Board of Directors, each director shall have an equal voice with every other director, regardless of his interest in the shares of stock, and a vote of a majority of all the directors, shall be necessary to pass any measure or resolution pending before the board.

It is hereby agreed that the first meeting of stockholders of this corporation be held at the office of Parker, Dennett & Co., in the City of Milwaukee, on the 13th day of December, 1881, at 2 o'clock p. m., the requisite quantity of the capital stock being subscribed before that time. No certificate of stock shall be issued except the same shall be full paid, and no stock shall be transferred by any person liable to the corporation as principal debtor, and the corporation shall have a lien on the stock of every stockholder indebted to the corporation.

Article 8 is hereby amended by striking out all as it now stands and inserting in lieu thereof the following:

By-laws shall be adopted by the Board of Directors upon the vote of the majority of them. No by-laws shall be acted upon until the meeting of the board next succeeding the meeting at which it is introduced or proposed. All by-laws shall be recorded by the secretary immediately after their passage, in the minute book of the corporation, and shall take effect from and after such recording.

And it is further certified and declared, that the total amount of stock outstanding is one thousand shares, and that said amendments were adopted by a vote of all the stock present at said meeting, to-wit:

F. A. Dennett voting on 333 shares.

H. W. Conger voting on 333 shares.

G. H. Shulte voting on 167 shares.

And said persons are all the stockholders of said company, except Stephen Bull of Racine, Wisconsin.

And it is further certified that said meeting was held and said amendment adopted on the eighth (8th) day of March, 1882, and that the foregoing copy of said amendments is a true copy of the same as they are of record in the minutes of said meeting, and as recorded in the books of said company.

Wherefore this certificate is signed by the vice-president and secretary (the president being necessarily absent from the state) and sealed with the corporate seal of said company this eighth (8th) day of March, 1882.

H. W. CONGER,

Vice-President.

F. A. DENNETT,

Secretary.

County of Milwaukee, ss.:

On this 15th day of March, 1882, came personally before the undersigned, a notary public, residing in said county, Hiram W. Conger, vice-president, and Fred A. Dennett, secretary, of the Parker-Dennett Harvesting Machine Co., (limited), known to me to be such persons and officers, and severally acknowledged the execution of the within certifi-

cate for the uses and purposes therein expressed. Given under my hand and seal.

A. G. MILLER,  
Notary Public, Milwaukee, Co. Wis.

(Notarial Seal).  
No. 42966.

Recorded March 15th, 1882, at 12:45 o'clock p. m., in Volume "A" of Corporations, on pages 382, 383 and 384.

DENNETT HARVESTING MACHINE COMPANY,  
(Limited).

AMENDMENTS TO ARTICLES OF ASSOCIATION.

Be It Remembered, That a duly convened meeting of stockholders of the Dennett Harvesting Machine Company, (limited), called for the purpose and held at the office of the company in the City of Milwaukee, County of Milwaukee, and State of Wisconsin, on Friday, the second day of February, A. D., 1883, the Articles of Association of said company were amended as follows, that is to say:

Article 3 amended by striking out said article and inserting in lieu thereof the following:

Article III. The capital stock of the corporation shall be two hundred and fifty thousand dollars (\$250,000.00) divided into twenty-five hundred shares of one hundred dollars (\$100) each.

Article 4 of amended articles, as amended March 8, 1882, further amended by striking out said amended article 4, and inserting in lieu thereof the following:

Article IV. The general officers of this corporation shall be a president, vice-president, secretary and treasurer, and superintendent, and there shall be a board of six directors. Each general officer and each director shall hold office from the time of his election and qualification until the next subsequent annual election of officers, and until his successor shall have been elected and qualified.

The general officers shall be elected by the Board of Directors at each annual meeting of the board, or, if for the purpose of filling a vacancy, at any called meeting, and such person accepting an office to fill a vacancy, shall continue in office until the next annual meeting of the board.

And we, the undersigned, Stephen Bull, president, and Fred A. Dennett, secretary of the said company, pursuant to the statute in such case made and provided, do hereby certify that the foregoing is a true copy of the original amendments and the whole thereof, adopted as above set forth, and that the same respectively were duly adopted at said meeting on the day of the date thereof.

And we further hereby certify, that at such meeting all the shares of capital stock of said company were represented, and all voted unanimously for each such amendment.



In testimony whereof, we have hereunto set our names and the corporate seal of said company, this 6th day of February, A. D., 1883.

STEPHEN BULL,

President.

FRED A. DENNETT,

Secretary.

(Corp. Seal).

STATE OF WISCONSIN, }  
COUNTY OF MILWAUKEE, } ss.

Be it known that on the sixth day of February, A. D., 1883, before the undersigned, a Notary Public, residing in said County, personally came and appeared Stephen Bull, president, and Fred A. Dennett, secretary, of the Dennett Harvesting Machine Company, (limited), known to me to be the same and to be such officers, and acknowledged that as such they executed the foregoing instrument as their free act and deed, and that of said Company, for the uses and purposes therein expressed; and the said Fred A. Dennett, being duly sworn, did make oath and say that he is the secretary of said Company, that the seal affixed to said instrument is the corporate seal of said Company, and was affixed by him by due order and authority.

Given under my hand and seal Notarial.

S. S. STOUT,

Notary Public, Milwaukee County, Wisconsin.

(Not. Seal).

No. 52594.

Recorded February 6, 1883, at 2:30 p. m., in Vol. B. of Incorporations, on pages 86 and 87.

Dennett Harvesting Machine Company, (limited), Amd't.

At a meeting of the members of the Dennett Harvesting Machine Company, (limited), a corporation organized under the laws of the State of Wisconsin, on or about the twelfth day of December, 1881, which meeting was duly convened pursuant to the Constitution and by-laws of said corporation, and at which meeting the owners of more than two-thirds of all the stock outstanding, to-wit: The owners of the entire stock of said Company, were represented in person, the following resolution was duly presented and adopted by vote of the owners of more than two-thirds of the stock then outstanding, to-wit: By the vote of the owners of all the shares of stock of said corporation.

Resolved, That Article three (3), with its amendments as recorded in the Articles of Association, this volume, folio five (5), and records of this corporation, this volume, folio sixty-two (62), be further amended to read as follows:

The capital stock of this corporation shall be five hundred thousand dollars divided into five thousand shares of one hundred dollars each.

The said resolution was adopted by the affirmative votes of the following named persons owning respectively the number of shares of stock in said Company set opposite to their respective names:

Stephen Bull, seven hundred and seventeen shares.

George Burnham, three hundred and ninety-five shares.

H. W. Conger, four hundred and sixty-one shares.

G. H. Shulte, two hundred and thirty-two shares.

F. A. Dennett, three hundred and one shares.

A. K. Hamilton, three hundred and ninety-four shares.

STATE OF WISCONSIN, }  
 } ss.  
COUNTY OF MILWAUKEE, }

We, Stephen Bull, the president, and A. K. Hamilton, the secretary of the Dennett Harvesting Machine Company, (limited), do hereby certify that the foregoing amendment to the Articles of Organization of the Dennett Harvesting Company, (limited), was duly adopted at a special meeting of the stockholders of said Company, duly convened according to the by-laws of said Company, which meeting was held at the City of Milwaukee, on the 27th day of December, 1883, that such amendment to the Articles of Organization of said Company was adopted at said meeting by a vote of the owners of more than two-thirds of the stock of said Company, to-wit: Of all the stock then outstanding, and that the foregoing copy of such amendment to said Articles of Organization is a true copy of the original.

In witness whereof, We, the said Stephen Bull, as president, and the said A. K. Hamilton as secretary of said Company, have hereto set out hands, and have caused these presents to be sealed with the corporate seal of the said Dennett Harvesting Machine Company, (limited), this eighth day of April, A. D., 1884.

STEPHEN BULL,

President.

A. K. HAMILTON,

Secretary.

(Corp. Seal).

STATE OF WISCONSIN, }  
 } ss.  
COUNTY OF MILWAUKEE, }

On this eighth day of April, A. D., 1884, personally came before me the above named Stephen Bull, president, and A. K. Hamilton, secretary of the Dennett Harvesting Machine Company, (limited), to me known to be the persons who executed the foregoing certificate, and acknowledged the same.

A. A. L. SMITH,

Notary Public, Milwaukee County, Wisconsin.

No. 64841.

Recorded April 9, 1884, at 2 o'clock p. m., in Volume B. of Corporation, on pages 269-270.

# AMENDMENT TO THE ARTICLES OF ORGANIZATION OF THE DENNETT HARVESTING MACHINE CO., (Limited).

Resolved, That Article II of the Articles of Organization of this corporation as heretofore amended be and the same is hereby amended by striking out the words "Dennett Harvesting Machine Company, (lim-

ited)," and inserting in lieu thereof the words "Milwaukee Harvester Company," so that said article as amended shall read as follows:

"Article II. The name of this Corporation shall be 'Milwaukee Harvester Company,' and its location and principal office shall be in the City of Milwaukee, but its factories may be located in the County of Milwaukee, within or without the limits of said city."

STATE OF WISCONSIN, }  
COUNTY OF MILWAUKEE, } ss.

We, Stephen Bull, president, and A. K. Hamilton, secretary of the Dennett Harvesting Machine Company, (limited), do hereby certify that the foregoing amendment to the Articles of Organization of the Dennett Harvesting Machine Company, (limited), was unanimously adopted at a meeting of the stockholders of the Dennett Harvesting Machine Company, (limited), duly convened pursuant to law at the office of said Company, in the City of Milwaukee, Wisconsin, on the 14th day of November, 1884, by the affirmative vote of the owners of 4699 shares of said stock; being more than two-thirds of all the stock of said Company, and more than the amount required to be represented in order to transact the business for which such meeting was called, namely: To amend the Articles of Organization. And we further certify that the foregoing and above copy of such amendment is a true copy of the original amendment so adopted at such meeting.

In Witness Whereof, We, Stephen Bull, president, and A. K. Hamilton, secretary of said Company, have hereunto signed our names respectively, and have caused this certificate to be sealed with the corporate seal of said Corporation, this 19th day of November, A. D., 1884.

STEPHEN BULL,  
President.  
A. K. HAMILTON,  
Secretary.

(Corp. Seal).  
No. 72250.

Recorded November 20, 1884, at 5:15 o'clock p. m., in Volume B. of Incorporations, on page 341.

#### MILWAUKEE HARVESTER CO. AMENDMENT OF.

At a special meeting of the stockholders of the Milwaukee Harvester Company, a corporation organized under the laws of the State of Wisconsin, which meeting was duly convened pursuant to the Articles and By-laws of the said Corporation, and at which meeting were present the owners of all the capital stock of said Company, the following resolution was duly adopted by the affirmative votes of all the stockholders present, to-wit:

#### RESOLUTION.

"Be It Resolved, That the Articles of Association of the Milwaukee Harvester Company, be, and the same hereby are further amended so as to increase the amount of the capital stock of said Corporation from five hundred thousand dollars to seven hundred and fifty thou-

sand dollars, the same to be divided into seven thousand five hundred shares of one hundred dollars each, and the proper officers of this Corporation are hereby authorized and directed to cause the certificates therefor to be prepared and issued to the stockholders legally entitled thereto upon their payment therefor, and said officers are also authorized to issue new certificates in place of old certificates, share for share, upon proper surrender of old certificates.

STATE OF WISCONSIN, }  
COUNTY OF MILWAUKEE, } ss.

Know All Men by These Presents, That we, Stephen Bull, the president, and C. W. Hamilton, the secretary of the Milwaukee Harvester Company, do hereby certify that the foregoing amendment to the Articles of Association of the Milwaukee Harvester Company, was duly adopted at a special meeting of the stockholders of said Company, duly convened according to the Articles and By-laws of said Company, which meeting was held at the principal office of said Corporation at the City of Milwaukee, on the 13th day of April, in the year 1889. And we do further certify that such amendment was adopted at said meeting by the affirmative votes of the owners of more than two-thirds of all the capital stock of said Corporation, to-wit: By the affirmative votes of all owners of all the stock, and that the foregoing copy of such amendment to said Articles of Association is a full, true and correct copy of the original thereof.

In witness whereof, the said Stephen Bull, the president, and C. W. Hamilton, the secretary, have hereunto set our hands and have caused the corporate seal of the said Milwaukee Harvester Company to be affixed hereto, this 15th day of April, A. D., 1889.

STEPHEN BULL,  
President.  
C. W. HAMILTON,  
Secretary.

In presence of H. W. Conger and D. McK. Sinclair.  
(Corp. Seal).

No. 139597.

Recorded April 18, 1889, at 11 o'clock a. m., in Volume E. of Incorporations, on pages 88-89.

H. J. BAUMGAERTNER,  
Register of Deeds.

#### MILWAUKEE HARVESTER CO. AMENDMENT OF,

At a special meeting of the stockholders of the Milwaukee Harvester Co., held in the Company's office in Milwaukee, Wisconsin, on the 27th day of February, 1889, at 11 o'clock, a. m., pursuant to personal notice to all the stockholders of said Company by the secretary, A. K. Hamilton, there was present at such meeting:

Stephen Bull, representing 1,918 shares of stock.

H. W. Conger, representing 461 shares of stock.

A. K. Hamilton, representing 594 shares of stock.

W. C. Hamilton, representing 400 shares of stock.

C. W. Hamilton, representing 100 shares of stock.

Being in the aggregate more than two-thirds of all the stock of said Company, and more than the amount required to be represented in order to transact the business for which the meeting was called, namely: To amend the Articles of Organization.

The following amendment to the Articles of Organization of the Corporation was thereupon presented and unanimously adopted by a vote of more than two-thirds of the entire capital stock of the corporation, namely: By an affirmative vote of the owners of 3,473 shares of said stock as follows:

Mr. Stephen Bull, 1918.

Mr. H. W. Conger, 461.

Mr. A. K. Hamilton, 594.

Mr. W. C. Hamilton, 400.

Mr. C. W. Hamilton, 100.

Resolved, That Article IV, of the Articles of Organization of this corporation as heretofore amended, be and the same is hereby amended by striking out the word "six" and inserting in lieu thereof the word "eight" so that the article as amended shall read as follows:

"Article IV. The general officers of this corporation shall be a president, vice-president, secretary and treasurer, and superintendent, and there shall be a Board of Directors. Each general officer and each director shall hold office from the time of his election and qualification until the next subsequent annual election of officers, and until his successor shall have been elected and qualified.

The general officers shall be elected by the Board of Directors at each annual meeting of the board, or, if for the purpose of filling a vacancy, at any called meeting; and such person accepting an office to fill a vacancy shall continue in office until the next annual meeting of the board.

STATE OF WISCONSIN,     )  
  ) ss.  
COUNTY OF MILWAUKEE, ]

We, Stephen Bull, the president, and A. K. Hamilton, the secretary of the Milwaukee Harvester Co., do hereby certify that the foregoing amendment to the Articles of Organization of the Milwaukee Harvester Company, was duly adopted at a special meeting of the stockholders of said Company, duly convened according to the By-laws of said Company, which meeting was held at the City of Milwaukee, on the 27th day of February, 1889, that such amendment to the Articles of Organization of said Company was adopted at said meeting by a vote of the owners of more than two-thirds of the stock of said Company then outstanding, and that the foregoing copy of such amendment to said Article of Organization is a true copy of the original.

In witness whereof, we, the said Stephen Bull, as president, and the said A. K. Hamilton as secretary of said Company, have hereunto set our hands, and have caused these presents to be sealed with the

corporate seal of the said Milwaukee Harvester Co., this 27th day of February, A. D., 1889.

STEPHEN BULL,  
President.

A. K. HAMILTON,  
Secretary.

(Corp. Seal).

No. 137899.

Recorded March 19, 1889, at 11 o'clock a. m., in Volume E. of Incorporations, on pages 57 and 58.

H. J. BAUMGAERTNER,  
Register of Deeds.

### AMENDMENT TO ARTICLES OF ASSOCIATION, MILWAUKEE HARVESTER COMPANY.

At a special meeting of the stockholders of the Milwaukee Harvester Company, a Corporation organized under the laws of the State of Wisconsin, which meeting was duly convened pursuant to the Articles and By-laws of the said Corporation, and at which meeting were present in person or by proxy, the owners of two-thirds of the capital stock of said Company, the following resolutions was duly adopted by the affirmative votes of all the stockholders present, to-wit:

#### RESOLUTION.

Be It Resolved, That Article three of the Articles of Association of the Milwaukee Harvester Company, and the amendments thereto as recorded in the Articles of Association be, and the same are hereby further amended to read as follows:

The capital stock of this corporation shall be one million dollars, divided into ten thousand shares, of one hundred dollars each, and the proper officers of this corporation are hereby authorized and directed to cause the certificates therefor to be prepared and issued to the stockholders legally entitled thereto, upon their payment therefor, and said officers are also authorized to issue new certificates in place of old certificates, share for share, upon proper surrender of old certificates.

STATE OF WISCONSIN, )  
COUNTY OF MILWAUKEE, ) ss.

Know All Men by These Presents, That we, Stephen Bull, the president, and C. W. Hamilton, the secretary of the Milwaukee Harvester Company, do hereby certify that the foregoing amendment was duly adopted at the adjourned annual meeting of the stockholders of said Company, duly convened according to the Articles and By-laws of said Company, which meeting was held at the principal office of said Corporation at the City of Milwaukee, on the 30th day of January, in the year 1893, and we do further certify that such amendment was adopted at said meeting by the affirmative votes of the owners of more than two-thirds of all the capital stock of said corporation, and that the

foregoing copy of such amendment to said Articles of Association is a full, true and correct copy of the original thereof.

In witness whereof, the said Stephen Bull, the President, and C. W. Hamilton, the Secretary, have hereunto set our hands and have caused the corporate seal of the said Milwaukee Harvester Company to be affixed hereto, this first day of February, A. D. 1893.

STEPHEN BULL, President.

C. W. HAMILTON, Secretary,  
Milwaukee Harvester Company.

Milwaukee Har-  
vester Company

[Seal.]

In presence of Orson J. Olin, Jr.

W. T. BULL,

H. H. KAVANAUGH.

No. 225060.

Recorded Feb. 3, 1893, at 9:30 a. m., in Vol. H. of Incorporations, on pages 412 and 413.

AUGUST KIECKHEFER, Register of Deeds.

#### AMENDMENT TO ARTICLES OF ORGANIZATION OF MILWAU- KEE HARVESTER COMPANY.

At the annual meeting of the stockholders of the Milwaukee Harvester Company, a Corporation organized under the laws of the State of Wisconsin, on the 28th day of February, 1898, at 11 o'clock a. m., at the Company's office, in Milwaukee, Wis., which meeting was duly convened pursuant to notices to all the stockholders of said Company by the Secretary, H. W. Conger, and pursuant to the constitution and by-laws of said corporation, and at which meeting the owners of more than two-thirds of all the stock outstanding, to wit: the owners of nine thousand seven hundred and ninety-four (9,794) shares were represented in person or by proxy or attorney.

The following resolution was duly presented and adopted by the affirmative vote of the following-named stockholders owning the respective number of shares of said corporation set opposite their respective names, to wit: nine thousand seven hundred and ninety-four shares, and being more than two-thirds of all the stock outstanding:

Stephen Bull (by F. K. Bull, attorney), 4,002 shares.

A. K. Hamilton, 1,328 shares.

Phoebe A. Hamilton (by A. K. Hamilton, attorney), 401 shares.

W. C. Hamilton, 806 shares.

C. W. Hamilton, 201 shares.

John Q. Burnham, 719 shares.

John Q. Burnham, guardian for John O. Burnham, 120 shares.

C. T. Burnham, 622 shares.

G. H. Shulte (by F. K. Bull, proxy), 464 shares.

H. W. Conger, 930 shares.

Frank K. Bull, 201 shares.



Resolved, That Article IV of the Articles of Organization of this Corporation, as heretofore amended, be, and the same is hereby amended so that the Article amended shall read as follows:

Article IV. The General Officers of this Corporation shall be a President, Vice-President, 2nd Vice-President, Secretary and Treasurer, and there shall be a Board of Nine Directors. Each General officer and each Director shall hold office from the time of his election and qualification until the next subsequent annual election of officers, and until his successor shall have been elected and qualified. The general officers shall be elected by the Board of Directors at each annual meeting of the Board, or if for the purpose of filling a vacancy, at any called meeting, and such person accepting an office to fill a vacancy shall continue in office until the next annual meeting of the Board.

(Imp. Corp. Seal.)

State of Wisconsin, }  
County of Milwaukee. } ss.

We, the said Stephen Bull, the President, and H. W. Conger, the Secretary of the said Milwaukee Harvester Company, do hereby certify that the foregoing amendment to the Articles of Organization of the Milwaukee Harvester Company was duly adopted at a special meeting of the Stockholders of said Company, duly convened according to the by-laws of said Company, which meeting was held at the City of Milwaukee, on the 28th day of February, 1898.

That such amendment of said Article of the said Organization of said Company, was adopted at said meeting by a vote of the owners of more than two-thirds of the stock of said Company, to wit: Nine thousand seven hundred and ninety-four shares of stock, and that the foregoing copy of such amendment to said Articles of Organization is a true copy of the original.

In witness whereof, we, the said Stephen Bull, President, and said H. W. Conger, as Secretary of said Company, have hereto set our hands and have caused these presents to be sealed with the corporate seal of the said Milwaukee Harvester Company, this 28th day of February, 1898.

STEPHEN BULL, President.

H. W. CONGER, Secretary.

No. 358094.

Recorded Aug. 9th, 1898, at 2:45 o'clock p. m., in Vol. M. of Incorporations, on pages 275 and 276.

H. A. VERGES, Register,

Per ALFRED CHURCH, Deputy.

#### AMENDMENT TO ARTICLES OF INCORPORATION OF MILWAUKEE HARVESTER CO.

At the annual meeting of the stockholders of the Milwaukee Harvester Company, a Corporation, organized under the laws of the State of Wisconsin, on the 28th day of February, 1899, at 9 o'clock a. m., at the Company's office, in Milwaukee, Wis., which meeting was duly con-

vened pursuant to notices to all the stockholders of said Company, by the Secretary, M. R. D. Owings, and pursuant to the Constitution and By-laws of said Corporation, and at which meeting the owners of more than two-thirds of all the stock outstanding, to wit: The owners of all the shares of the capital stock, were represented in person. The following resolution was duly presented and adopted by the affirmative and unanimous vote of all the stockholders, namely: Ten Thousand shares.

Resolved, That Article IV of the Articles of Organization of this Corporation, as heretofore amended, be, and the same is hereby amended so that the article amended shall read as follows:

Article IV. The general officers of this Corporation shall be a President, Vice-President, Second Vice-President, Secretary and Treasurer, and there shall be a Board of nine Directors. Each general officer and each director shall hold office from the time of his election and qualification until the next subsequent annual election of officers, and until his successor shall have been elected and qualified. The general officers shall be elected by the Board of Directors at each annual meeting of the Board, or, if for the purpose of filling a vacancy, at any called meeting; and such person accepting an office to fill a vacancy shall continue in office until the next annual meeting of the Board and until his successor shall have been elected. The Secretary need not be a stockholder or director.

Resolved, That Article V of the Articles of Organization of this Corporation, as heretofore amended, be, and the same is hereby amended to read as follows:

Article V. The duties of the several general officers, respectively, are thus defined:

The President shall preside at all meetings of the stockholders and at all meetings of the Board of Directors; shall decide all rules of order and practice at such meetings; shall sign all indentures, deeds, mortgages, releases and instruments to which the signature of the President is usually requisite, and shall, with the other general officers, have general supervision of the business and affairs of the Corporation.

The Vice-President shall perform all the necessary and proper duties of the President in the latter's absence; may sign and execute all instruments and papers to which the President's signature is ordinarily necessary, with the same force and effect as if signed by the President, whether the latter be absent or not, and shall have such general management and active share in the Company's business as may be agreed upon, and perform such duties in connection therewith as may further be prescribed by appropriate by-laws.

The Second Vice-President shall perform all the necessary and proper duties of the President in the absence of the President and Vice-President; may sign and execute all instruments and papers to which the President's signature is ordinarily necessary, with the same force and effect as if signed by the President, whether the latter be absent or not, and shall have such general management and active share in the Company's business as may be agreed upon, and perform such duties in connection therewith as may further be prescribed by appropriate by-laws.

The Secretary shall keep the records of the Corporation and the

minutes of the meetings of the stockholders and of the Board of Directors; shall have the custody and duty of affixing the common seal, and be responsible for its due and proper use; shall have principal charge of the ordinary correspondence and office business of the Company; shall sign, attest and seal all instruments and papers to which the corporate seal shall be required, and shall, in connection with the Treasurer, supervise and direct the proper keeping of the accounts and records of the business of the Company, and shall perform such other duties as usually devolve upon like officers of mercantile corporations.

The Treasurer shall have charge of the Bills Receivable and Payable collections and finances of the Corporation, and, with the Secretary, supervise the accounts kept of the same, and be held responsible for the financial management of the ordinary business, and shall render statements and give information at all reasonable times to the Corporation and its general officers and directors concerning the same; shall make reports of the stockholders at their annual meetings; shall have charge, with the advice of the directors, and to such extent as the by-laws may permit, of the loans and discounts, credits and disbursements of funds of the Corporation, and shall perform such other duties as usually devolve upon like officers.

The office of Secretary and Treasurer, or both, may also be held by the person holding the office of President, Vice-President or Second Vice-President.

The Treasurer may delegate his duties, so far as pertains to the details of business, to an Assistant Treasurer or Cashier, or similar officer, who shall be appointed by him, with the advice and consent of the Board of Directors. Such Assistant Treasurer, or Cashier, or similar officer shall not, however, be deemed a general officer, and shall not be a member of the Board of Directors.

The President, Vice-President, Second Vice-President and Treasurer must be members of the Board of Directors, and all the general officers must be stockholders, with the exception of the Secretary, who need not be a stockholder or a Director.

Resolved, That Article VII of the Articles of Organization of this Corporation, as heretofore amended, be, and the same is hereby amended so that the article amended shall read as follows:

Article VII. The stock, property, affairs and business of such corporation shall be under the care of and be managed by said Board of Directors, who shall be chosen annually by the stockholders, from among their number, at such time and place as the by-laws shall prescribe.

In the meeting of stockholders, each share of the capital stock shall be entitled, if duly represented, to one vote, and a majority of all the shares of capital stock outstanding shall be duly represented in order to constitute a quorum to do business, but a majority of the votes cast at any properly constituted meeting of stockholders shall be sufficient to pass any measure or resolution offered at such meeting and within its jurisdiction.

State of Wisconsin, }  
 County of Milwaukee. } ss.

We, said Stephen Bull, the President, and M. R. D. Owings, the Secretary of the said Milwaukee Harvester Company, do hereby certify that the foregoing amendments to the Articles of Organization of the Milwaukee Harvester Company were duly adopted at a special meeting of the stockholders of said Company, duly convened according to the by-laws of said Company, which meeting was held at the City of Milwaukee, on the 28th day of February, A. D. 1899.

That said amendments of said articles of said organization of said Company, were adopted at said meeting by a majority and unanimous vote of the owners of all the capital stock of said Company, and that the foregoing copy of such amendments to said articles of organization is a true copy of the original.

STEPHEN BULL, President,  
 M. R. D. OWINGS, Secretary.

(Imp. Corp. Seal.)  
 No. 371308.

Recorded March 13, 1899, at 1:15 o'clock p. m., in Volume M of Incorporations on pages 563, 564 and 565.

H. A. VERGES, Register,  
 Per ALFRED CHURCH, Deputy.

# AMENDMENT OF ARTICLES OF ASSOCIATION OF MILWAU- KEE HARVESTER COMPANY.

United States of America, }  
 State of Wisconsin, } ss.  
 Department of State.

To all to whom These Presents May Come—Greeting:

I, Wm. H. Froelich, Secretary of State of the State of Wisconsin, do hereby certify that a certified copy of amendment to the Articles of Organization of the Milwaukee Harvester Company, of which the hereto attached is a like certified copy, was, on the 6th day of September, A. D. 1902, accepted and filed in the Department of State.

In testimony whereof, I have hereunto set my hand and affixed my official seal at the capitol, in the City of Madison, this 6th day of September, A. D. 1902.

WM. H. FROELICH,  
 Secretary of State.

(Imp. Cor. Seal.)

We, George P. Miller, as President of the "Milwaukee Harvester Company," and Arthur W. Fairchild, as Secretary of the "Milwaukee Harvester Company," hereby certify that the following amendment of the Articles of Association of the Milwaukee Harvester Company was adopted on the 5th day of September, 1902, at a meeting of the members of said Milwaukee Harvester Company, held on said date at the office of said Milwaukee Harvester Company in Milwaukee, Wisconsin, by a vote of the owners of 10,000 shares of the stock of said Milwaukee Har-

vester Company, and that at said time there was then outstanding 10,000 shares of the stock of said Milwaukee Harvester Company.

That the following copy is a true copy of said original amendment, and of the whole thereof, namely:

Resolved, That article 2 of the Articles of Association of the Milwaukee Harvester Company be amended so as to read as follows:

Article 2. The name of this Corporation shall be the "International Harvester Company of America," and its location and principal office shall be in the City of Milwaukee, Wisconsin.

In witness whereof, said George P. Miller, as President of the Milwaukee Harvester Company, and said Arthur W. Fairchild, as Secretary of said Milwaukee Harvester Company, have caused the corporate seal of said Milwaukee Harvester Company to be hereto affixed, and have signed these presents this 5th day of September, 1902.

GEO. P. MILLER,

As President of the Milwaukee Harvester Company.

ARTHUR W. FAIRCHILD,

As Secretary of the Milwaukee Harvester Company.

(Imp. Corp. Seal.) No. 450573.

Recorded September 8th, 1902, at 9 o'clock a. m. in Volume R. of Incorporations, on page 168.

O. H. PIERCE, Register.

# AMENDMENT TO ARTICLES OF INTERNATIONAL HARVESTER COMPANY OF AMERICA.

United States of America,	} ss.
State of Wisconsin,	
Department of State.	

To All To Whom These Presents Shall Come—Greeting:

I, Wm. H. Froelich, Secretary of State of the State of Wisconsin, do hereby certify that a certified copy of Amendment to the Articles of Organization of the International Harvester Company of America, of which the hereto attached is a like certified copy, was, on the 22nd day of September, A. D. 1902, accepted and filed in the Department of State.

In testimony whereof, I have hereunto set my hand and affixed my official seal at the Capitol, in the City of Madison, this 22nd day of September, A. D. 1902.

HY. P. SCHMIDT,

(Imp. Off. Seal.)

Asst. Secretary of State.

We, George P. Miller, as President of the International Harvester Company of America, and Arthur W. Fairchild, as Secretary of said Company, hereby certify that the following Amendments of the Articles of Association of the International Harvester Company of America were adopted on the 18th day of September, 1902, at a meeting of the members of said International Harvester Company of America, held on said date at the office of the International Harvester Company of America in Milwaukee, Wisconsin, by a vote of the owners of ten thousand shares of the capital stock of said company, and that at said time there was outstanding ten thousand shares of the capital stock of said company.

That the following is a true copy of said original amendments, and of the whole thereof, viz.:

Resolved, That the Articles of Association of the International Harvester Company of America be amended by striking out all the provisions of the said Articles of Association now in force and by substituting therefor the following:

# AMENDMENT TO THE ARTICLES OF ASSOCIATION OF THE INTERNATIONAL HARVESTER COMPANY OF AMERICA.

First. The incorporators associate themselves together for the purpose of forming a corporation under the laws of the State of Wisconsin.

Second. The business and purposes of the corporation shall be to manufacture, sell and deal in harvesting machines, tools and implements of all kinds, including harvesters, binders, reapers, mowers, rakes, headers and shredders, agricultural machinery, tools and implements of all kinds; binder twine, and all repair parts and other devices, materials and articles used, or intended for use, in connection with any kind of harvesting or agricultural machines, tools or implements.

To engage in the manufacture or production of, and to deal in, any materials or products which may be used in, or in connection with, the manufacture of harvesting or agricultural machines, tools and implements

To apply for, obtain, register, lease or otherwise acquire, and to hold, use, own, operate, sell, assign or otherwise dispose of, any trade-marks, trade-names, patents, inventions, improvements and processes used in connection with, or secured under, letters patent of the United States or of other countries or otherwise.

The business or purpose of the Corporation is, from time to time, to do any one or more of the acts and things herein set forth.

Without in any particular limiting any of the powers of the Corporation, it is hereby expressly declared and provided that the Corporation shall have power to guarantee any dividends or bonds, contracts or other obligations; to make and perform contracts of any kind and description; and in carrying on its business and for the purpose of attaining or furthering any of its objects to do any and all other acts and things, and to exercise any and all other powers which a natural person could do and exercise, and which now are or hereafter may be authorized by law.

The Corporation shall have power to conduct its business in other states and territories, and in foreign countries, and to have one or more offices out of the State of Wisconsin, and to hold, purchase, mortgage and convey real and personal property both in and out of the State of Wisconsin.

Third. The name of the Corporation is International Harvester Company of America.

Fourth. The location of the Corporation is in the City of Milwaukee, Milwaukee County, Wisconsin, but it may have places of business at other points either within or without the State of Wisconsin, and may



transact business in all places, either within or without the State of Wisconsin.

Fifth. The capital stock is One Million Dollars, divided into ten thousand shares of the par value of One Hundred Dollars each.

Sixth. The general officers shall be a President, four Vice-Presidents, a Secretary and a Treasurer. The President shall, subject to the Board of Directors, have general charge of the business of the Company; he shall do and perform such other duties as from time to time may be assigned to him by the Board of Directors or as may be specified in the by-laws.

The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the stockholders; he shall in general perform all the duties incident to the office of Secretary, subject to the control of the Board of Directors, and shall perform such other duties as from time to time may be assigned to him by the Board of Directors, or as may be specified in the by-laws. The Treasurer shall, subject to the directions of the Board of Directors, have custody of all the funds and securities of the Company which may come into his hands; he shall perform all acts incident to the position of Treasurer, subject to the control of the Board of Directors, and shall perform such other duties as from time to time may be assigned to him by the Board of Directors, or as may be specified in the by-laws.

The same person may hold more than one office.

Seventh. The Board of Directors shall consist of nine (9) members, who shall be elected at such times and for such terms as may be provided by the by-laws of the Company. The Directors shall have power to hold their meetings outside of the State of Wisconsin. All corporate powers shall be exercised by the Directors, except as otherwise provided by law or by these articles. The by-laws may prescribe the number of Directors necessary to constitute a quorum, which number may be less than a majority of the whole number of Directors. Any officer or employe of a corporation may be removed at any time by vote of the Directors, or by any committee or superior officer of the Directors, or by any committee or superior officer upon whom such power of removal may be conferred by the by-laws or by vote of the Directors.

The directors may appoint officers other than those named in these articles, who shall perform such duties as from time to time may be assigned to them by the Board of Directors or as may be specified in the by-laws. The directors may make by-laws and from time to time may alter, amend or repeal any by-laws. But any by-laws made by the directors may be altered or repealed by the stockholders at any annual meeting or at any special meeting, provided notice of such alteration or repeal be included in the notice of the special meeting.

Eighth. The stock shall be transferable by assignment in such manner as shall be prescribed by the Board of Directors.

Registered holders of the certificates of stock of the corporation shall be entitled to vote, in person or by proxy, at all meetings of the corporation, and each share of stock shall be entitled to one vote. At any meeting of the stockholders, the holders of one-third of all the



shares of the capital stock of the company, present in person or represented by proxy, shall constitute a quorum of the stockholders for all purposes, unless the representative of a larger number shall be required by law, and, in that case, the representation of the number so required, shall constitute a quorum.

Ninth. The duration of the corporation shall be perpetual.

In witness whereof, said George P. Miller, as President of the International Harvester Company of America, and said Arthur W. Fairchild, as Secretary of said Company, have caused the corporate seal of said International Harvester Company of America to be hereto affixed, and have signed these presents this 18th day of September, 1902.

GEO. P. MILLER, As President.

ARTHUR W. FAIRCHILD, As Secretary.

(Imp. Corp. Seal.) No. 451509.

Recorded September 22nd, 1902, at 11:05 o'clock a. m. in Volume R. of incorporations, on pages 176, 177, 178 and 179.

O. H. PIERCE, Register.

Per ALFRED CHURCH, Deputy.

# UNITED STATES OF AMERICA, STATE OF WISCONSIN, OFFICE OF REGISTER OF DEEDS, MILWAUKEE, COUNTY:

I, Otto Seidel, Jr., as Register of Deeds of Milwaukee County, in the State of Wisconsin, do hereby certify that I am the keeper and custodian of all books, papers and records, deposited or kept in the office of the Register of Deeds of said County; that I am also the keeper of the seal for said office; that the Articles of Association of the Parker-Dennett Harvesting Machine Company (limited), and all the amendments thereto, including the amendments changing the name of said corporation to Dennett- Harvesting Machine Company (limited), and then to Milwaukee Harvester Company, and finally to the International Harvester Company of America, of which the annexed are true and correct copies, are of record in this office; that they have been compared by me with the original records in this office, and that the same are true and correct copies thereof, and of the whole of such records, and that the record of the times and places where said Articles of Association and amendments thereto were filed and recorded in this office are truly and correctly printed in the annexed copies and are true.

Given under my hand and the official seal for the office of Register of Deeds of Milwaukee County, Wisconsin, this 11th day of March, A. D. 1905.

OTTO SEIDEL, Jr.,

Register of Deeds for Milwaukee County, Wisconsin.

State of Wisconsin,

County of Milwaukee.

} ss.

I, Lawrence W. Halsey, as Presiding Justice of the Circuit Court for Milwaukee County, Wisconsin, do hereby certify that the fore-

going attestation of Otto Seidel, Jr., Register of Deeds of said County, is in due form and by the proper officer.

Given under my hand, this 11th day of March, 1905.

LAWRENCE W. HALSEY.

Presiding Justice of the Circuit Court of Milwaukee County, Wisconsin.

State of Wisconsin,

County of Milwaukee.

} ss.

I, A. A. Wieber, as Clerk of the Circuit Court of Milwaukee County, Wisconsin, do hereby certify that Lawrence W. Halsey, above named, is the duly commissioned and qualified Presiding Justice of the Circuit Court of Milwaukee County, Wisconsin.

Given under my hand and the seal of said court, and of my office this 11th day of March, 1905.

A. A. WEIBER,

Clerk of the Circuit Court of  
Milwaukee County, Wisconsin.

WM. E. MANNING, of lawful age being duly sworn upon his oath, testifies as follows, on behalf of the respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. Wm. E. Manning.

Q. Where do you live? A. Kansas City, Missouri.

Q. How far is Kansas City from here? A. 158 or 160 miles as I understand it.

Q. What is your business? A. I am in the agricultural implement business.

Q. For whom? A. For the Kansas Moline Plow Company.

Q. What position do you hold with them? A. Manager of the business.

Q. How long have you been manager? A. Five years.

Q. What were you doing before then? A. Five years previous I was assistant manager for the same firm.

Q. You are familiar with the general line of business? A. Yes, sir.

Q. What were you doing before then? A. Prior to that time I commenced with the Kansas Moline Plow Company I was with the D. M. Osborne Company.

Q. The last ten years you were either manager or assistant manager of the Kansas Moline Plow Company? A. Yes, sir.

Q. What part of Missouri is included in your territory? A. Western part.

Q. And what other territory? A. Kansas and a small portion of Oklahoma.

Q. Have you any relation to the International Harvester Com-

pany of New Jersey or the International Harvester Company of America? A. No, sir; except as competitors of theirs.

Q. You sell goods of the same character as they sell? A. Some parts.

Q. Some parts of your line is the same as the International Harvester Company of America sell? A. Yes, sir.

Q. You are here under a subpoena? A. Yes, sir; I am.

Q. Now Mr. Manning, are you familiar with the prices and character of agricultural implements in the State of Missouri as well as in the Western District which is technically in your department? A. No, sir; not outside of the territory we work in.

Q. You sell alone in that territory? A. Yes, sir.

Q. You are generally familiar with the whole State of Missouri with the conduct of your business? A. Yes, sir.

Q. You only sell in the western half? A. Yes, sir.

Q. But as regards the prices and conduct of the business you are familiar with the whole state? A. Only on the presumption it is the same as the western part of the state.

Q. You are familiar with the course of prices of wagons, buggies and harrows, etc., in the State of Missouri, are you not in western Missouri? A. Yes, sir.

Q. Do you handle plows? A. Yes, sir; we do.

Q. Do you handle disc harrows? A. Yes, sir; we do.

Q. Now Mr. Manning take the disc harrow, how has the price of the disc harrow to the dealer been from, say between 1902 and up to 1908? A. There has been considerable advance since 1901 and 1902.

Q. What has the Standard harrow, 16 disc, sold for? A. What we term the 14-16 is the standard size, 16 inch in circumference with 14 discs on the harrow.

Q. What is the price of that to the dealer in 1901, 1902 and 1903? A. \$20.00 as far back as 1901.

Q. What is the price now? A. \$23.75.

Q. About 18 per cent? A. Yes, sir; about.

Q. Take the four tooth cultivator, you handle that? A. Yes, sir; we do.

Q. Is that a standard cultivator? A. Yes, sir.

Q. What was the price to the dealer of that cultivator in the years 1901 and 1902? A. To the dealer in 1901, the standard four tooth plain cultivator was sold at \$11.00.

Q. That was to the dealer? A. Yes, sir.

Q. What does it sell for now? A. \$12.25.

Q. Take the wagon, 3 1-4 inch wagon, is that the standard wagon? A. Yes, sir.

Q. What was the price of that, how has the price of that changed in the last four or five or six years? A. The wagon we are selling today we have been handling for the past five or six years.

Q. You have handled wagons about five or six years? A. The wagon we are selling today is the one we handled when I first went

with the company, and the price of the wagon five years ago was \$58.50 and today it is \$70.50.

Q. Take the grain drill and compare the price between the dates of 1901, 1902, 1903 and 1908 and 1909? A. You take the ten-8 disc drill plain in 1905 we got \$50.00 for it and at the present we get about \$58.00.

Q. How has it been in buggies? A. It has been some advance.

Q. Before what years? A. Five years ago we sold the Standard buggy rubber 1-4 top and rubber tire, what we term a medium price buggy for \$58.50. Today we get \$66.00 for it.

Hon. Theodore Brace, Commissioner:

You speak of your selling price, these other articles you were speaking of the price you were selling at? A. Yes, sir; the price we charged.

Hon. Theo. Brace, Commissioner:

To the farmer?

A. No, sir; to the dealer, we do not sell to the farmer.

Hon. Theo. Brace, Commissioner:

You are talking about the price to the dealer all the time?

A. Yes, sir.

Q. All of these prices on all of these articles are the price you get cash, net from the dealer? A. No, sir; not cash, net.

Q. What are they? A. They are cash discounts from those prices.

Q. At how much? A. At the past year and now a discount of ten per cent.

Q. How was it in the former prices of 1901 and 1902, that you gave? A. Be about I think, two years or a year and a half or two years ago on wagons and buggies, grain drills, we made a discount of five per cent. on plow goods which includes cultivators and disc harrows, that class of small implements we made a discount of 7 1-2 per cent.

Q. Were these discounts you have indicated, these are the prices to the dealer from the general agents from the company itself? A. From our company to the local dealer.

Q. I think I omitted the sulky plow, can you tell the price on that? A. You take the plow that is used, the 16 inch riding plow, we sold in 1901 and 1902 at \$25.00, today we get \$28.00.

Q. Could you tell from your experience what is the average you do not handle harvesters or binders? A. No, sir.

Q. You have nothing to do with them? A. No, sir.

Q. Can you tell on the average increase on agricultural implements that you handled between 1903 and 1909, about what the average increase of prices was? A. I would say about 16 per cent.

Q. Now what other articles generally do you handle besides those I have named? A. Well we have corn planters, stalk cutters, a full class of small tools such as used by the farmer of this country.

Q. I have named your main lines, have I not? A. Well if you take a single item in the lines, we have different styled cultivators, we take the walking plow, we have a number of different harrows,

but in a general way you have asked them, you have taken the leaders in our line.

Q. Is the course of prices substantially the same in the different sub-divisions as you have already testified in regard to, than the ones I have mentioned? A. Yes, sir.

Q. Do you sell your goods on a commission or on direct sales? A. Direct sale.

Q. No commission? A. No, sir.

Q. When it is paid for? A. At a stated time.

Q. How about your repairs, are they sold directly or on commission? A. They are sold direct.

Q. Take the price that you have for the agent, it is a straight price or do you make concessions here and there? A. A straight price.

Q. The price to the agents are the same? A. Yes, sir; we treat them all alike.

Q. Is that true during the ten years you have been in business? A. Yes, sir.

Q. In a town do you sell two agents the same articles of goods? A. No, sir; that is we would not sell two agents the same plow, we would sell if we did not sell him our wagons, we would want the privilege of selling the wagons to anybody we could in the town and the same way with the buggy.

Q. How much does the sulky plow weigh? A. The average weighs about 400 pounds.

Q. What does it sell for to the farmer? A. To the farmer, I have never been in the retail business.

Q. What does it sell for to the agent? A. To the local dealer we get \$28.00 for it.

Q. What does that mean to the farmer? A. In talking with the dealers they claim to get about 25 per cent. That makes that plow sell for \$35.00.

Q. How much does the walking plow weigh? A. Well the standard 12 inch steel beam will weigh 95 or 100 pounds.

Q. What is the price the farmer pays for that? A. They will sell from \$12.00 to \$14.00.

Q. What does the walking cultivator weigh? A. 200 lbs.

Q. What does the farmer pay for that? A. \$16.00 or \$17.00.

Q. What does the disc harrow weigh? A. 400 or 425 pounds.

Q. What does the farmer pay for that? A. I would suppose they would sell for \$28.00 or \$30.00.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. You do not sell farm implements by weight, do you? A. No, sir.

Q. Now your company has no agents, has it, that is, among the people who sell directly to the farmer, you have purchasers that purchase outright from you? A. Yes, sir.

Q. You do not deliver your goods to the agent or representative of yours to sell on a commission? A. No, sir.

Q. You say that the Moline Plow Company has no connection whatever with the International Harvester Company? A. No, sir.

Q. You do not handle any of their line of goods? A. We do not.

Q. Do you manufacture all your implements? A. Yes, sir.

Q. You do not job at all for their machines, you are not a jobbing house? A. No, sir; when I first went with the Moline Plow Company we bought wagons and buggies outside from the different concerns, at the present time our company is manufacturing the different lines themselves with one exception, we bought a few hay tools outside.

Q. You say the wagon that you now sell for \$70.50 you sold five years ago for \$58.00, an increase of \$12.00? A. Yes, sir.

Q. Do you know what they sold for in 1902? A. We did not sell it in 1902.

Q. You did handle wagons in 1902? A. Yes, sir.

Q. Do you remember what you received for a wagon of practically the same quality and size as that in 1902? A. No, sir; I do not.

Q. Do you remember whether there was any increase at all regardless of the particular amount from 1902 to 1905 in the price of wagons? A. I think there was.

Q. Now the price on farm implements which you handle have been increased just gradually have they not, year by year since 1902? A. 1901 and 1902, I think is about the beginning of it, when I first went with them.

Q. Your company has not continued to manufacture implements and sell them at a certain fixed price up until 1908 and then suddenly jump eight to ten per cent? A. Oh; no, sir.

Q. Your increase came gradually year after year? A. Yes, sir.

Q. Is the price of material increased in value? A. Yes, sir.

Q. The price on the raw material that goes into the implements that you manufacture was gradually increasing year by year since 1901? A. As we understand it; yes, sir.

Q. There was no radical increase in the price of raw material in 1907, was there? A. Well I made no material contracts, I would not be in a position to say what might have been in the way of changes at any stated time.

Q. Do you know as a matter of fact that in the fall of 1907, when the manufacturing companies were purchasing their raw material and manufacturing that raw material into the finished product, there was a considerable decrease in the price of raw material as there was on the price of anything during the panic year? A. I don't know as there was any reduction, as I say I was not in the contracting department, but the general knowledge I have is that we could as we gather it, it could not indicate there was a big drop.

Q. There was some drop in your business conditions? A. Yes, sir.

Q. In the price of raw material that goes into the manufacture of your products? A. Well in a general way, I presume it is.

Q. Now is it not a fact that during the fall of 1907, and in the spring of 1908, that the price on raw material was even less than the price on the same raw material was in 1906, the fall of 1906, and even the fall of 1905? A. I do not think it was.

Q. Has there not been a greater increase in the price of raw material that goes into the wagon than there has been in the material that goes into the binder or mower in the last few years? A. I believe there has.

Q. Hard wood has increased to what per cent in the last four or five years? A. Well I am not positive, I am not in a position to say what it is.

Q. In a general way do you know it has increased 40 to 60 per cent? A. I know it has increased at a heavy rate.

Q. You know what material the binder is principally made of? A. I cannot say that I do. It is principally iron and steel, I presume.

Q. Now illustrating again the period of 1907 and 1908, can you recall there was a special drop in the price of iron and steel in the fall of 1907? A. I cannot answer.

Q. What was the general course of prices on raw material in 1900? A. I don't know.

Q. What was the general course on the prices of the finished product of farm implements you handled in the year 1899 and 1900? A. I do not understand.

Q. Was the course on the prices on implements you made and sold in 1899 and 1900 downward or upward? A. It is my recollection they were about that time. It was about that time that the prices began to tend upward.

Q. To go up, that was true in 1899? A. I do not remember now. That is—

Q. That is on the implements that you make and sell, do you not remember that? A. Well in 1899, I was just starting with the present people, I don't know as I was with them in the fall of 1899.

Q. In 1900 the course of prices were slightly upward? A. Not to any extent.

Q. That was the tendency in that year, was it not? A. My recollection was the tendency was an advance in 1901 and 1902, somewhere along there.

Q. In 1901 and 1902? A. Yes, sir.

Q. And from that time on, there has been a gradual increase? A. Yes, sir.

Q. What business were you engaged in in 1898? A. I was with the Osborne Harvester Company.

Q. Were you stationed in Missouri, were you doing business in Missouri? A. I had charge of their transfer business in Kansas City.

Q. Mr. Manning, on the line of implements that you handled now is the increase in the price due largely to the improved condition of the implement and the superior quality of the material that goes into them? A. Well I cannot say, it is my judgment that the ad-



vance is caused from the raw material as they give it to us, and the prices in labor is the cause in the continued advance.

Q. Do you mean to say that the Moline Plow Company has not since 1902, been making any material improvements in their implements? A. They made some changes this year.

Q. You stated there had been a general increase of 16 per cent? A. Yes, sir.

Q. What part of that increase has been due to the improvements that you put on your implements and the superior quality of material that you have put in these implements? A. I have no idea, I could not tell.

Q. So far as you know, the entire increase may be represented by the improvements placed on the implement and the superior quality of the material put in the implement so far as you personally know, is that true? A. Well my general knowledge of the advance in all commodities that enter into the construction of these things as I am acquainted with it from my reports, I would infer it was largely on account of an increase of raw material.

Q. Well take on your grain drill, your disc harrow, you say they went from \$50.00 to \$58.00? A. Yes, sir.

Q. Now then do you put technically the same quality of material in that drill as you did five years ago? A. I don't know as to the quality.

Q. Have you placed any improvements on that drill? A. Yes, sir; some changes on the drill.

Q. Those have been those that were looking towards the general improvement of the drill, have they not? A. Yes, sir.

Q. Now you don't know then whether the \$8.00 difference in the price is represented by the increase in the cost of the material that goes into that machine that drill or whether it is due to the superior quality or improvement, do you? A. No, sir.

Q. Do you know how much more of raw material that goes into that drill that formerly sold for \$50.00 and now sells for \$58.00, how much more that raw material costs then than now? A. I don't know.

Q. Do you know how much more the labor costs? A. No, sir.

Q. But you do know about drills and implements that have been materially improved? A. There has been some changes in it.

Q. Will you not say those are improvements? A. I think so.

Q. The International Harvester Company of America has no plows has it, do they make plows? A. No, sir; not as I know of.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. You have nothing to do with the construction of the implements you deal in? A. Nothing whatever.

Q. Is it in the course of your employment or business to find out the cost of the different machines or implements you sell the cost of the machine? A. No, sir.

Q. It is not your business at all? A. No, sir.

Q. Do you know whether the improvements in your implements have added or decreased in the cost of the implement itself? A. No, sir.

(Witness excused.)

T. N. FUNSTON, of lawful age being duly sworn upon his oath, testifies as follows, on behalf of the respondent:

# DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is T. N. Funston? A. Yes, sir.

Q. Where do you live? A. St. Louis, Missouri.

Q. How far is St. Louis from here? A. About 150 miles.

Q. How far? A. 140 or 150 miles.

Q. Is it now 124 miles? A. I stand corrected.

Q. Mr. Funston, how many binders made by the International Harvester Company of New Jersey are sold by the International Harvester Company of America; no I will put the question this way; how many binders are there in Missouri of the Champion, Plano, Milwaukee, Deering, McCormick and Osborne today? A. Well as an estimate I would say 28,000 to 30,000.

Q. What is your position? A. General agent of the International Harvester Company of America at St. Louis.

Q. How long have you been its general agent? A. Since 1903, you know we ran first as divisions in 1904, then I was appointed the general agent for all the lines in St. Louis.

Q. That is from 1904 on you have been the general agent for the International Harvester Company of America in St. Louis? A. Yes, sir.

Q. What before then was your employment? A. In 1903 I handled the Milwaukee division, and from 1897, September 1st, to September 1903, I was the general agent for the Milwaukee Harvester Company, St. Louis, and before that.

Q. And before that? A. From January 1st, 1892, to September 1st, 1897, I was the general agent for the Walter A. Wood Company at St. Louis.

Q. Before then what business were you in? A. From 1879 to 1892 I was a traveler for the Walter A. Wood Company in Illinois, headquarters at Decatur.

Q. From 1879 to 1892, you were employed by the Walter A. Wood Company, first as traveler, and then as general agent? A. Yes, sir.

Q. And subsequently as general agent for the Milwaukee Company? A. Yes, sir.

Q. And then as general agent of the International Harvester Company of America? A. Yes, sir.

Q. Before 1879, what was your employment? A. It was varied.

Q. Was it in the Harvester line? A. No, sir.

Q. Your district takes in what part of Missouri? A. 43 counties in the southeast part of the state, we come as far west as Howard and Cooper and Moniteau and Miller and Crawford, down through to the Arkansas line and east and over north as far as Lincoln and Audrain and Boone and Howard on the north.

Q. In the course of your employment and the conduct of business, did or do you have occasion to become familiar with the price of cultivators, harrows and machinery in the State and the conduct of the business in regard to them? A. We get the prices generally by talking with the agents and in that way we have opportunity to become familiar with the prices in a general way on the small lines.

Q. So you are familiar with the prices of agricultural implements in the State of Missouri and the conduct of the business of them? A. Pretty generally.

Q. That particular information in your own territory? A. Yes, sir.

Q. Now you say that your judgment is that there are approximately 30,000 binders of these companies in Missouri today? A. 28,000 to 30,000.

Hon. Theodore Brace, Commissioner:

You mean in everybody's hands, or in the hands of the dealers?

A. No, sir; in the hands of farmers that are used.

Q. That is there are now being used by the farmers of Missouri approximately 30,000 of the binders of these companies? A. Yes, sir.

Q. Binders of these makes? A. In these counties.

Q. Yes, sir? A. Yes, sir.

Q. Now what would be your judgment as to the number of mowers that were in actual use in the State of Missouri by the farmers, manufactured and sold under these various names? A. About 68,000 to 70,000.

Q. Can you tell us Mr. Funston, as to what proportion of the entire binder business in your territory is done by the lines by the binders handled by the International Harvester Company of America? A. You mean by that all the binders sold in the territory?

Q. In your territory, yes, sir; all of the binders sold, what proportion does the binders of the International Harvester Company of America bear? A. Judging from what I know of the sales of other companies and reports I get from the trade journals and in talking with the present general agent for one of the independent companies who used to work for me I would say from 75 to 80 per cent of the sales made are made by our company.

Q. What about the per cent in mowers? A. That runs lower, 60 to 65 per cent on mowers.

Q. How about wagons? A. Well wagons are pretty hard to get in line on, the wagon proportion, there are so very many wagons made by local manufacturers, blacksmiths, I would not want to put the wagon over 15 to 20 per cent.

Q. How about the threshers, you sell a small thresher? A. We sell the Bell City, we do not sell, I do not believe we sell one per cent.

Q. How about cream separators? A. Cream separators would not run over five or ten per cent.

Q. About how many different lines of goods does the International Harvester Company of America deal in? A. Well we have got binders and mowers, hay rakes, disc harrows, peg tooth harrows, spring tooth, gasoline engines and wagons.

Q. Cream separators? A. Yes, sir.

Q. And mowers? A. I named the mowers that is about the list.

Q. How many would you say in number?

Q. Now Mr. Funston of these articles that the International Harvester Company of America deal in in Missouri, what proportion of the entire business in these articles in Missouri does the International Harvester Company of America do?

Hon. Theodore Brace, Commissioner:

Do you mean other than those—

Q. No, sir; just the ones the International Harvester Company of America deals in, all these articles, how much of the entire business of these articles sold in Missouri is done by the International Harvester Company of America? A. That takes in our binders and mowers and binder twine, takes in our entire line.

Q. Yes, sir; shelters, and cream separators? A. Why I should judge 20 to 25 per cent.

Q. How much of the entire business in the agricultural tools and machinery in the business in Missouri, including both the things you deal in and the things you do not handle, does the International Harvester Company of America do? A. Well that would not run over ten or fifteen per cent.

Q. That is of the entire business in farm implements, the International Harvester Company of America does ten or fifteen per cent? A. That is my judgment.

Q. Of the entire business, which do you do, what proportion is your binder business? A. 20 per cent, 20 and a very slight fraction.

Q. Of your entire business what proportion is your mower business? A. 19 per cent.

Q. I want to ask you about the six-foot binder, do you know how many parts there are to it, I mean separate pieces that form parts, substantial pieces, how many pieces to it, that is substantial pieces? A. That counts—the count we made on that was 1,273, I think.

Q. Does that include nails and tacks and screws and small parts? A. No, sir.

Q. How many with all the small parts? A. Oh that would go up to 3,000 to 3,500 I should say.

Q. But of the main parts of the mechanism and carriage of the machine there are 1,273 pieces? A. Yes, sir.

Q. What does it weigh? A. That same binder weighs 1,705 pounds.

Q. With the transport truck? A. Yes, sir; with the transport truck, not with the tongue truck.

Q. Since 1903, have there been to your knowledge any improvements made on these different machines? A. Yes, sir.

Q. Well what? A. Well on the beginning with McCormick they changed their knot tying head which gives us the machine that has been giving better general satisfaction, they give us a new binder attachment with more space for heavy grain, the Deering has given us a change in the harvester also on the mower they have given us a vertical lift mower which makes the mower better on the Milwaukee they have given us a new harvester with an open elevator which enables us to handle heavier grain more satisfactory and they have given us a gear drive mower which we did not have in the old Milwaukee days itself. In the Champion line they have given us a new binder and also added the vertical lift feature to the mower and have given us a new binder on the Osborne and also added the vertical lift feature to the Osborne mower, those are all changes that have been to the betterment of the machine and also to the farmer, it has given a better machine to sell and a better machine for the farmer.

Q. In 1903 were the desirable features of the separate machines I have named, put upon the others that did not have them? A. Not at that time.

Q. When were they? A. I say after that time. Since 1903, there have been binders of that kind built, features of that kind applied to different machines, I speak more particularly of the Milwaukee mower. There are parts that are to be on the McCormick that are now on the Milwaukee mower, that has made it a better machine.

Q. That is, the features that the McCormick had before 1903 the sale right to use was using alone since 1903, have been employed on the Milwaukee in improving the Milwaukee mower? A. Yes, sir.

Q. And that is true of all other machines as far as it is available and practical? A. Yes, sir.

Q. Did the Osborne or McCormick or Plano or Warder-Bushnell Glessner or the Milwaukee Company ever do any manufacturing in the State of Missouri? A. No, sir.

Q. All they did was to sell? A. Yes, sir.

Q. After 1902, did the McCormick or Plano or Warder Bushnell Glessner do any business in Missouri at all? A. No, sir; not after the fall of 1902, in September.

Q. What was the price of the six-foot binder when you started in as a traveling man for the six-foot binder for the Walter A. Wood Company in 1879? A. To the dealer or the farmer?

Q. Either one? A. I began as a canvasser, we got \$340.00 for wire binders and in 188—

Hon. Theodore Brace, Commissioner:

That to the dealer?

A. Yes, sir; to the dealer, Judge, \$340.00 was the price to the dealer.

Q. What did they get from the farmer? A. Correct that, that was the price to the farmer, Judge.

Q. To the dealer, about what was that? A. The dealer got a commission of 20 per cent for the sale of the machines.

Q. Now go on—A. In 1881, they were sold to the farmer for

about \$275.00, that however, was a twine binder and there was a commission to the dealer, they gradually went off, I cannot carry in my mind the different net prices, along in 1884 or 1885 we were getting \$240.00 from the farmer and they gradually went down, then about —they were sold for \$120.00 to \$125.00 to the farmer in later years.

Q. Now down in about 1901, 1902 and 1903, 1901 and 1902, the price to the dealer was about what? A. \$95.00 cash and \$100.00 time basis.

Q. Was there any increase after the International Harvester Company of America took hold? A. Not until for the season of 1908.

Q. That is from 1902 it run along the same price that it had been immediately before up to the season of 1908? A. Yes, sir.

Q. Now Mr. Funston, one of the witnesses said this morning as I remember him, in 1891 the price of the six-foot binder to the farmer was \$125.00 in Missouri? A. Well in 1891, that was the memorable year in the binder business.

Q. Was he right about that? A. Yes, sir.

Q. What was that? A. That was the year the Deering and McCormick Companies were in a war and the rest of us were virtually out of the business for 1891.

Q. How long did that price last? A. Just the one year that the price, that it was so badly demoralized.

Q. What was the cause of that, let's get that clear in our minds? A. Well—

Q. Who participated in it? A. I can't go back to the cause, that was something beyond my knowledge, from general information we could see that Mr. Shields who was managing the business for the Deering harvesting business was a price cutter and slaughtered things.

Q. What machine were you handling that year? A. Walter A. Wood.

Q. Did their machine meet that price? A. No, sir.

Q. Did the Milwaukee? A. I don't know—I don't know whether they met it or not, I don't know what was done in that territory, I was in Minnesota that year.

Q. I thought I understood you to say that year, the war of that year was between the Deering and the McCormick, and the other companies did not participate in it? A. So far as I know the Wood did not, and I do not think the other companies did.

Q. As far as you know the McCormick and the Deering cut prices all that year between them so that the farmers got their machines for \$125.00? A. Yes, sir; that was the general trend of it that year.

Q. How long before that cut was ended? A. It only lasted the one year.

Q. In 1892 the price to the farmer was what? A. It was restored to \$130.00 or \$140.00, I think the Wood Company was holding out \$140.00 to the farmer.

Q. And what to the dealer? A. We sold at about 20 per cent, we sold at a uniform discount, that \$112.00 to the dealer.

Q. \$28.00 off would be \$112.00 to the dealer? A. Yes, sir.

Q. From 1892 to 1902 or 1903, the price diminished until the dealer got it from \$100.00 on time and \$95.00 cash? A. Yes, sir; I was in Milwaukee, I remember the year 1900 they were \$105.00 cash and \$110.00 time basis, I was in Milwaukee in 1900.

Q. What did the mower sell for when you started as a blockman in 1879 to the farmer? A. \$90.00.

Q. Was the mower affected also in 1891 by that single year's warfare? A. Yes, sir.

Q. And what was the price to the dealer in 1879 to the dealer? A. 20 per cent the same as of the binder.

Q. \$90.00 with 20 per cent off? A. Yes, sir.

Q. And 1903, the price of the mower was what? A. \$34.00 cash, \$36.00 time.

Q. That to the dealer? A. Yes, sir.

Q. And that condition was uninterrupted until the season of 1908? A. Yes, sir.

Q. And then the price was what? A. \$38.50 for it, with 5 and 2 off.

Q. Was the decrease in the price of the mower from 1879 down to 1901 and 1902, continuously down with the exception of that single year down in 1891? A. Yes, sir; a gradual decline during these years.

Q. Mr. Funston, was the exclusive agency clause in the contracts of the Milwaukee and Plano, Champion, Deering and McCormick prior to 1902? A. Yes, sir.

Q. Was there an attempt to enforce it these years? A. Yes, sir.

Q. Since 1903, has there been any attempt to enforce it? A. No, sir.

Q. Has it been in the contracts since 1905? A. No, sir.

Q. Some of the witnesses testified that they lived in towns of fifty and sixty and seventy inhabitants; in the harvester, in the agricultural implements business, is the size of the town any index to the amount of business that is done? A. No, sir.

Q. How do you explain that? A. You may have a very small town in the heart of a very good farming country where there is a great demand for harvesters and mowers, you might have a larger town where there are not, so the sale in a small town would be greatly out of proportion to the sale in a large town.

Q. In other words a small town in the center of a large agricultural community is a much better place for farm implements dealing than a large town in the center of a manufacturing community? A. Yes, sir.

Q. What about the insurance, was the dealer required to carry by his contract, insurance on the commission goods he formerly had? A. Yes, sir; frequently.

Q. Do you remember when that change was made? A. That was the contract when I first began making contracts up in 1903 or 1904, in 1903 or 1904 it was taken out of the contracts.

Q. And has it been there since? A. No, sir.



Q. Since that time the company has carried the insurance on the commission goods? A. Yes, sir.

Q. What has been the course of the prices of repairs between 1903 and the present time? A. Well with most of the companies there has been a reduction in a great many of the prices.

Q. Take those repairs which are most frequently called for by the farmer, most often needed, and what has been the course of prices in regard to these repairs? A. It is generally down.

Q. As for example the prices in scythes? A. Our prices now is less than it used to be.

Q. And in sickles? A. Less than it used to be.

Q. Less now than in 1903? A. Yes, sir.

Q. And in pitmans? A. Yes; less on the pitmans.

Q. And on the guards? A. It is less on the old guard, the new guard is a little higher, the guard has been made heavier in some respects.

Q. What is the increase in price on the new guard? A. Five cents on the guard.

Q. That fifty per cent? A. No, sir.

Q. From 10 to 15 per cent? A. About 20 per cent.

Q. What has been the increase in the weight of the new guard from the old? A. I cannot answer that as to the exact weight.

Q. In per cent, how much heavier? A. I should say just as an estimate 25 or 30 cents possibly.

Q. And sections? A. The list on sections has gone down.

Q. How about the list price on pitman boxes? A. They are listed cheaper.

Q. Your comparison on all of this has been between 1903 and the present time? A. Yes, sir.

Q. And bolts? A. The list has gone down on the larger line of bolts.

Q. And the pitmans? A. It is less on pitmans.

Q. And wearing plates? A. It remained stationary on some of the old ones, but the new wearing plate is listed higher than the old one.

Q. How much? A. 50 per cent, the old one is listed at ten cents and the new plate at 15 cents.

Q. How much per cent heavier? A. Little over 100 per cent heavier.

Q. How about ledger plates? A. Ledger plate is reduced in list.

Q. Has the list of repairs for next year, 1910, come out? A. No, sir; we have not our 1910 list.

Q. You don't know what the repairs of 1910 will be? A. We have the selling card for 1910.

Q. No change in that? A. Yes, sir; the changes have been made in the selling price, it is lower.

Q. For these parts which I have named, the parts most frequently called for and needed by the farmer? A. Yes, sir; these are the parts they generally get out.

Q. Are all these parts of repairs in which the price has decreased are they handled by the Independent supply houses? A. Well, all those you enumerated, there none now that I have in mind—the Milwaukee—the complete knotter head on the Milwaukee—my recollection is was \$12.00, that now I think has been reduced to \$8.00.

Q. That is, between 1903 and 1909? A. Yes, sir. The Milwaukee needle for the Milwaukee knotter was \$3.50; that has gone down to \$1.75, I think, and these parts are not handled by any one I know of.

Q. How about the disc? A. Well, the disc on the Milwaukee has been reduced possibly 20 cents reduction on the disc.

Q. Is that handled by supply houses? A. Not that I know of.

Q. Did you include the knotter camp and hook in your former statement? A. These are all parts that took to make up the complete knotter head which I say was listed at \$12.00 originally.

Q. These are not handled by the independent supply houses? A. Not that I know of.

Q. Now, prior to 1903 all the companies had the insurance clause in their contracts requiring the agents to insure his goods? A. Yes, sir.

Mr. Funston, in the testimony of Mr. J. H. Butler, he said that he had a machine, a machine had been billed to him for \$85.00; do you remember, Mr. Butler? A. Yes, sir.

Q. Do you remember where he was? A. In Salem, Missouri.

Q. That in your territory? A. Yes, sir. I looked that up; that was a corn binder that had been sold and returned and afterwards resold for a reduced price, and we made Mr. Butler a cash price of \$85.00 on his machine.

Q. How long, Mr. Funston, has the International Harvester Company of America been dealing in wagons? A. I think in 1904; they first took on the sale of Weber and Columbus wagons.

Q. What was the price of the Weber wagon in 1904? A. A single lot, one wagon?

Q. Yes, sir. A. \$58.00 and something, I do not remember the cents, \$58.00 and a fraction.

Q. Was that the price to the dealer? A. Yes, sir.

Q. What was the price of that same wagon today, 1909, to the dealer? A. \$69.00 and some cents.

Q. Mr. Funston, what has been the course of prices in farm implements other than the harvesters and binders and mowers from 1903 to the present time? A. Well, from information I get from talking to dealers prices generally have advanced—

Q. To what proportion, what per cent.? A. About 12 to 15 per cent.

Q. Does that include wagons or exclude wagons? A. That is exclusive of wagons.

Q. Do you remember, Mr. Funston, what year it was that the International Harvester Company of America acquired the property in St. Louis that you have under your control? A. That was the fall of 1904 that we were notified to take over the property there.

Q. It was then you took possession of it for the International Harvester Company of America? A. Yes, sir.

Q. What was it? A. The warehouse property at 22nd and Gratiot.

Q. What is that worth? A. \$100,000.00 to \$110,000.00.

Hon. Theodore Brace, Commissioner:

You say you were notified to take it over from whom? A. From the D. M. Osborne Company. It was the warehouse that the Osborne Company were doing business; it was the Osborne warehouse. They were doing business in that when they turned their business over to us; they turned that property over to us.

Q. The general agency point is the place or the point from which retail dealers in that territory get their supplies, is it not? A. Yes, sir.

Q. Can you tell the Commissioner how the number of agency points in Missouri today compare with the number before 1902? A. Well, my information is there was no general agency point at St. Joe up to that time, and I know there is one there now.

Q. And are now the other general agency points maintained as before? A. Yes, sir.

Q. What are they? A. St. Louis; Quincy, Illinois; Springfield, Mo.; Kansas City, Mo.; St. Joe, Mo.

Q. Quincy is in Illinois? A. Yes, sir; they control a part of Northeast Missouri, and have for years.

Q. In their territory? A. Yes, sir.

Q. Do you remember Mr. E. B. Campbell of Auxvasse? A. Yes, sir.

Q. Mr. Campbell testified on the witness stand that his agency was discontinued because he sold a Standard mower. A. Yes, sir.

Q. Is that in your territory? A. Yes, sir.

Q. Do you remember it? A. Yes, sir; I looked that up; the trouble originated over the sale of a gasoline engine; he claimed that the salesman who sold him the engine agreed to carry it—

Hon. James T. Blair, counsel for informant:

From what source does that information come? A. From my little book.

Q. Any transaction with an agency must come through you? A. Yes, sir.

Q. You are the only one that can do it? A. Yes, sir.

Hon. James T. Blair, counsel for informant:

The letter is the best evidence; we object to his testimony.

Hon. Theo. Brace, Commissioner:

Testify to the facts; do not testify to the contents of the letter.

A. I can testify from memory. I remember we had quite a little transaction over it; he claimed that the salesman—

Hon. James T. Blair, counsel for informant:

Q. How was this claim made, by letter? A. No, sir; conversations between us when we would be on the ground talking; conversations between me and Mr. Campbell.

Q. Proceed, Mr. Funston. A. The claim he made when we

wanted to fix it and talk with him about this deal and tried to get him to pay for the engine, was that the salesman said if the engine was not sold when it was due that we would carry it; the contract was regular; no carrying clause in the contract; we insisted on payment, and he insisted he would not pay, and we took the engine back, and closed up the deal.

Hon. James T. Blair, counsel for informant:

This conversation was between whom? A. Mr. Campbell, myself, and the traveling man on the block.

Q. Mr. Funston, do you know how many competitors the International Harvester Company of America has in the several lines of goods in which they deal? A. The total number.

Q. Are you familiar with the competitors that are in Missouri? A. Yes, sir; in different lines, pretty generally.

Q. I hand you what purports to be a list of the names and places of business of competitors in the different lines, and will ask you who made it up? A. I had my stenographer to make it up from a list or check I made from the Buyers' Guide.

Q. Are you familiar with the names of the competitors and their places of business as are set out on that list? A. You mean the manufacturers?

Q. Yes, sir. A. Pretty generally.

Q. Are you familiar with the fact whether or not the names on that list together with the manufacturers are the same as indicated upon that list? A. Yes, sir; these are the names of manufacturers of certain tools and the names of the tools sold now. This information is gotten by showing these different tools on sale throughout the State, and in some cases in the hands of the farmer, and information that comes to me from my selling organization that I rely on.

Q. You are familiar with the accuracy of that list you have in your hand? A. I feel that it is a good list of the goods that are actually offered, and have been sold in the last ten years in the State of Missouri.

Q. And are in existence today? A. Yes, sir.

Q. Hon. Selden P. Spencer, counsel for respondent:

I now desire on behalf of the respondent to offer in evidence as an exhibit at this time, and will ask that the stenographer mark the same as Exhibit No. —, the same being a list of the number of competitors of the International Harvester Company of America in the State of Missouri, together with their names, places of business and the articles they manufacture.

Hon. Charles G. Revell, counsel for informant:

You offer it as evidence as to the number of competitors of the International Harvester Company of America in the State of Missouri?

Hon. Selden P. Spencer, counsel for respondent:

Yes, sir.

The same here appears on the following page, in words and figures as follows, to wit, being marked Exhibit No. —:

## CORN HARVESTERS AND BINDERS.

Name.	Address.	Trade name.
1. Adriance Platt & Co.....	Poughkeepsie, N. Y.....	Adriance
2. Johnston Harvester Co.....	Batavia, N. Y.....	Johnston
4. Walter A. Wood & Co.....	Hoosick Falls, N. Y.....	New Century

## CORN HUSKERS AND SHREDDERS.

1. Advance Thresher Co.....	Battle Creek, Mich.....	Advance
2. Appleton Mfg. Co.....	Batavia, Ill. ....	Appleton
3. J. I. Case Threshing Mach. Co.....	Racine, Wis. ....	Case
4. Deere & Mansur Co.....	Moline, Ill. ....	Deere
5. Milwaukee Hay Tool Co.....	Milwaukee, Wis. ....	Milwaukee
8. Ohio Cultivator Co.....	Bellevue, Ohio ....	Goodhue
9. Parsons Band Cutter & S. F. Co.....	Newton, Iowa ....	Success
Port Huron Engine & Thresher Company . . . . .	Port Huron, Mich.....	Port Huron
11. Rosenthal Corn Husker Co....	Milwaukee, Wis. ....	Rosenthal
16. Taylor Husker & Shredder Co.....	Joliet, Ill. ....	Taylor

## CORN PICKER AND HUSKER.

1. Deere & Mansur Co.....	Moline, Ill. ....	Deere
3. Port Huron Engine & Thresher Company . . . . .	Port Huron, Mich.....	Port Huron
4. Taylor Husker & Shredder Co.....	Joliet, Ill. ....	Taylor

## CORN SHELLERS.

(One Hole Hand.)

2. Appleton Mfg. Co.....	Batavia, Ill. ....	Royal
8. Dain Mfg. Co.....	Ottumwa, Ia. ....	Dain
9. Deere & Mansur Co.....	Moline, Ill. ....	Deere
14. Foos Mfg. Co.....	Springfield, Ohio ....	Cyclone
15. S. Freeman & Sons Mfg. Co....	Racine, Wis. ....	Freeman
17. Harbison & Modica Mfg. Co....	Kansas City, Mo.....	Harmod
18. W. R. Harrison & Co.....	Massillon, Ohio ....	Tornado
20. Hocking Valley Mfg. Co.....	Lancaster, O. ....	Hocking Valley
22. Keystone Farm Machine Co....	York, Pa. ....	Economy
24. Marseilles Mfg. Co.....	Marseilles, Ill. ....	Diamond
28. Ohio Rake Co.....	Dayton, O. ....	Little Giant
31. Sandwich Mfg. Co.....	Sandwich, Ill. ....	Corn King
35. Stover Mfg. Co.....	Freeport, Ill. ....	Tiger
38. U. S. Wing Engine & Pump Co.....	Batavia, Ill. ....	
40. Whitman Agricultural Co....	St. Louis, Mo....	Mississippi Valley New Queen.

## CORN SHELLERS.

(Two-Hole Hand or Power.)

Name.	Address.	Trade name.
3. Appleton Mfg. Co.....	Batavia, Ill. ....	Badger
7. Deere & Mansur Co.....	Moline, Ill. ....	Deere
12. Foos Mfg. Co.....	Springfield, O...Cyclone, Scientific	
13. S. Freeman & Sons Mfg. Co...	Racine, Wis. ....	Freeman
17. Hocking Valley Mfg. Co.....	Lancaster, O. ....	Hocking Valley
18. Joliet Mfg. Co.....	Joliet, Ill. ....	Rural Ironsides Standard
19. Keystone Farm Machine Co...	York, Pa. ....	Imperial
20. Marseilles Mfg. Co.....	Marseilles, Ill....	Farmer, Favorite Pearl
24. Sandwich Mfg. Co.....	Sandwich, Ill. ....	Veteran
28. Stover Mfg. Co.....	Freeport, Ill. ....	Ideal
31. U. S. Wind Engine & Pump Co.	Batavia, Ill. . . . .	I. X. L., U. S.
33. Whitman Agr. Co. ....	St. Louis, Mo....	King, New Derby, St. Louis

## CORN SHELLERS.

(Two-Hole Self-Feed Power.)

1. Appleton Mfg. Co.....	Batavia, Ill. ....	New Hero
2. Deere & Mansur Co.....	Moline, Ill. ....	Deere Junior
4. Joliet Mfg. Co.....	Joliet, Ill. ....	Eureka, Ironsides
6. Marseilles Mfg. Co.....	Marseilles, Ill....	Cyclone Junior, Cyclone Senior, Leader, Chief
10. Whitman Agr. Co.....	St. Louis, Mo....	Prince

## CORN SHELLERS.

(Four-Hole Power.)

Name.	Address.	Trade name.
1. Appleton Mfg. Co.....	Batavia, Ill. ....	New Hero
2. Deere & Mansur Co.....	Moline, Ill. ....	Deere
3. S. Freeman & Sons Mfg. Co...	Racine, Wis. ....	Racine
4. Joliet Mfg. Co.....	Joliet, Ill. ....	Eureka
6. Marseilles Mfg. Co.....	Marseilles, Ill....	Cyclone Combina- tion
8. Sandwich Mfg. Co.....	Sandwich, Ill. ....	Sandwich

## CORN SHELLERS.

(Six-Hole Power.)

1. Deere & Mansur Co.....	Moline, Ill. ....	Deere
2. S. Freeman & Sons Mfg. Co...	Racine, Wis. ....	Racine
3. Joliet Mfg. Co.....	Joliet, Ill. ....	Eureka, Ironsides
5. Marseilles Mfg. Co.....	Marseilles, Ill....	Cyclone Combina- tion
7. Sandwich Mfg. Co.....	Sandwich, Ill....	Keystone, Sandwich

## CORN SHELLERS.

(Eight-Hole Power.)

Name.	Address.	Trade name.
1. Deere & Mansur Co.....	Moline, Ill.....	Deere
3. Marseilles Mfg. Co.....	Marseilles, Ill.....	Cyclone Combination
5. Sandwich Mfg. Co.....	Sandwich, Ill.....	Sandwich

## CORN SHELLERS.

(Shuck Corn—Two-Hole Power.)

1. Marseilles Mfg. Co.....	Marseilles, Ill...	Marseilles Adams
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## CULTIVATORS.

1. S. L. Allen & Co.....	Philadelphia, Pa.....	Planet, Jr.
4. B. F. Avery & Sons.....	Louisville, Ky.....	Avery, Truckee
6. Hateman Mfg. Co.....	Grenloch, N. J.....	Iron Age
9. David Bradley Mfg. Co.....	Bradley, Ill.....	Bradley
11. Brown-Manly Plow Co.....	Malta, Ohio.....	Steel King, Steel Queen
12. Brown Mfg. Co.....	Zanesville, Ohio..	Famous Farmers, Favorite Genuine Brown
13. Bucher & Gibbs Plow Co.....	Canton, O.....	Ideal, Imperial
14. J. I. Case Plow Works.....	Racine, Wis.....	Katydid
19. Deere & Co.....	Moline, Ill.....	Deere
28. Fuller & Johnson Mfg. Co....	Madison, Wis....	Fuller & Johnson
Gale Mfg. Co.....	Albion, Mich.....	Star
2. Harbison & Modica Mfg. Co...	Kansas City, Mo.....	
34. Hartig-Becker Plow Co.....	Evansville, Ind.....	Up-to-Date
43. Moline Plow Co.....	Moline, Ill.....	Champion, Malta
47. Ohio Cultivator Co.....	Bellevue, O.....	Little Giant
48. Ohio Rake Co.....	Dayton, Ohio.....	Planters Pride
49. Parlin & Orendorff Co.....	Canton, Ill.....	Canton
50. Peru Plow & Wheel Co.....	Peru, Ill.....	Peru
52. Rock Island Plow Co.....	Rock Island, Ill.....	Magnolia
55. So. Bend Chilled Plow Co....	South Bend, Ind....	New Market
56. Sparta Plow Works.....	Sparta, Ill.....	New Market
59. J. Thompson & Sons Mfg. Co..	Beloit, Wis.....	Thompson
63. W. A. Wood M. & R. M. Co...	Hoosick Falls, N. Y.....	Princess, Queen

## CREAM SEPARATORS.

4. DeLaval Separator Co.....	New York, N. Y..	Acme, Alpha, Baby Daisy, Humming Bird, Standard
U. S. Cream Separating Co....	Bellows Falls .....	Onergo
5. Empire Cream Separator Co...	Bloomfield, N. J.....	Empire
12. Sharples Separator Co.....	West Chester, Pa.....	Sharples
17. Waterloo Cream Separator Co.	Waterloo, Iowa .....	Peerless
Smith Mfg. Co.....	Chicago, Ill.....	Great Western



## ENGINES, GASOLINE.

Name.	Address.	Trade name.
4. Alamo Mfg. Co.....	Hillsdale, Pa. ....	Alamo
5. Alma Mfg. Co.....	Alma, Mich. ....	McVicker
10. Baker Mfg. Co.....	Evansville, Wis. .	Baker, Little Baker, Monitor
12. Bauer Mach. Works Co.....	Kansas City, Mo. ....	Bauer, Rex
13. Bauroth Bros. ....	Springfield, O. ....	Bauroth
16. Brown-Cochran Co. ....	Lorain, Ohio ....	Brown
19. W. P. Callahan & Co.....	Dayton, O. ....	Callahan
21. Capital Gas Engine Co.....	Indianapolis, Ind. ....	Capital
26. Challenge Co. ....	Batavia, Ill. ....	Challenge
31. Clay Center Wind Mill Co....	Clay Center, Kans. ....	Mercules
36. Dempster Mill Mfg. Co.....	Beatrice, Neb. ....	Dempster
44. Fairbanks-Morse & Co.....	Chicago, Ill. ....	Fairbanks, Morse, Jack of All Trades
46. Field-Brundage & Co.....	Jackson, Mich. ....	Field
48. Flinchbaugh Mfg. Co.....	York, Pa. ....	York
49. Foos Gas Engine Co.....	Springfield, O. ....	Foos, Foos, Jr.
50. Foos Mfg. Co.....	Springfield, O. ....	Scientific
51. Fort Scott Mfg. Co.....	Fort Scott, Kans. ....	Scott
56. Gilson Mfg. Co.....	Fort Washington, Wis. ....	Gilson
62. Hart-Parr Co.....	Charles City, Ia. ....	Hart-Parr
65. Holliday Mfg. & Eng. Co.....	Chicago, Ill. ....	Holliday
66. Industrial Iron Works.....	Clinton, Mo. ....	Missouri
70. Kansas City Hay Press Co....	Kansas City, Mo. ....	Lightning
73. Kneeland Mfg. Co.....	Lansing, Mich. ....	Kneeland
76. C. P. & J. Lanson Co.....	Milwaukee, Wis. ....	Badger
77. John Lauson Mfg. Co.....	New Holstein, Wis. ....	Lauson
79. Lenox Machine Co.....	Marshalltown, Ia. ....	Lennox
80. Macgowan & Finigan F. & M. Company . ....	St. Louis, Mo. ....	Perfect
81. Hugh Matthews . ....	Kansas City, Mo. ....	Matthews-Davis
84. Middletown Mach. Co.....	Middletown, O. ....	Woodpecker
85. Milwaukee Machinery Co....	Milwaukee, Wis. ....	Milwaukee
94. New Era Gas Engine Co.....	Dayton, O. ....	Little Giant, New Era
95. New Holland Machine Co....	New Holland, Pa. ....	New Holland
97. New Way Motor Co.....	Lansing, Mich. ....	New Way
101. Olds Gas Power Co.....	Lansing, Mich. ....	Olds
103. Otto Gas Engine Works....	Philadelphia, Pa. ....	Otto
106. Perkins Wind Mill Co.....	Mishawaka, Ind. ....	Perkins
115. St. Marys Machine Co.....	St. Marys, O. ....	St. Marys
118. Charles Sinning Mach. Wks..	St. Louis, Mo. ....	Sinning
122. Chas. A. Stickney Co.....	St. Paul, Minn. ....	Stickney, St. Paul
124. Stover Engine Works.....	Freeport, Ill. ....	Stover
131. Waterloo Gasoline Engine Co.	Waterloo, Ia. ....	Waterloo
133. Weber Gas Engine Co.....	Kansas City, Mo. ....	Weber
134. Webster Mfg. Co.....	Chicago, Ill. ....	Webster, Webster Handy Man
135. Western Malleable & Gray Iron . ....	Milwaukee, Wis. ....	Simplicity
136. Westinghouse Mfg. Co.....	Schenectady, N. Y. ....	Westinghouse
139. Witte Iron Works Co.....	Kansas City, Mo. ....	Witte, Witte, Jr.

## GRAIN BINDER COVERS.

Name.	Address.	Trade name.
1. Acme Harvesting Machine Co.	Peoria, Ill. ....	Acme
2. Johnston Harvest. Co.	Batavia, N. Y. ....	Johnston

## GRAIN BINDERS.

1. Acme Harvesting Mch. Works.	Peoria, Ill. ....	Acme Queen
3. Johnston Harvester Co.	Batavia, N. Y. ....	Johnston, Bonnie Johnston, Conti- nental
6. W. A. Wood M. & R. M. Co.	Hoosick Falls. ....	New Century

## GRAIN HEADERS.

1. Acme Harvesting Mach. Co.	Peoria, Ill. ....	Acme Craver, Acme Hodges, Acme King, Randolph
2. Johnston Harvester Co.	Batavia, N. Y. ....	Johnston Continental

## GRAIN HEADER BINDERS.

1. Acme Harvesting Mch. Co.	Peoria, Ill. ....	Acme King
2. Johnston Harvester Co.	Batavia, N. Y. ....	Johnston

## HARROWS.

(Cut Out Disks.)

1. B. F. Avery & Sons.	Louisville, Ky. ....	Eureka, Tornado
2. E. Bennets Sons.	Lansing, Mich. ....	Anderson, Lansing, Junior, Michigan
3. Davis Bradley Mfg. Co.	Bradley, Ill. ....	Ideal
4. Bucher & Gibbs Plow Co.	Canton, O. ....	Imperial
6. Deere & Mansur Co.	Moline, Ill. ....	Deere
7. Emerson Mfg. Co.	Rockford, Ill. ....	Emerson
9. Grand Detour Plow Co.	Dixon, Ill. ....	Grand Detour, New Grand Detour
10. Janesville, Mach. Co.	Janesville, Wis. ....	Janesville Van- Dyke
11. Johnston Harvester Co.	Batavia, N. Y. ....	Johnston Conti- nental
13. Moline Plow Co.	Moline, Ill. ....	Economy
15. Ohio Rake Co.	Dayton, Ohio ....	Dayton
16. Parlin & Orendorf Co.	Canton, Ill. ....	Canton
17. Rock Island Plow Co.	Rock Island, Ill. ....	Bonanza, Defiance
20. Sterling Mfg. Co.	Sterling, Ill. ....	Standard, Sterling
22. J. Thompson & Sons.	Beloit, Wis. ....	

## HARROWS.

(Disk.)

Name.	Address.	Trade name.
1. B. F. Avery & Sons.....	Louisville, Ky. ....	Tornado
3. E. Bennet's Sons.....	Lansing, Mich. ....	Anderson, Lansing
4. David Bradley Mfg. Co.....	Bradley, Ill. ....	Junior, Michigan
6. Brown Mfg. Co.....	Zanesville, O. ....	Bradley, Jr., Ideal
8. Bucher and Gibbs Plow Co....	Canton, Ohio.....	Imperial, Perfect
9. J. I. Case Plow Works.....	Racine, Wis. ....	Case, J. I. Case
14. Deere & Mansur.....	Moline, Ill. ....	Deere, Deere, Jr. Deere, Model, Deere Universal
17. Eagle Mfg. Co.....	Kansas City, Mo.....	Eagle
18. Emerson Mfg. Co.....	Rockford, Ill. ....	Emerson, Sandow
23. Gale Mfg. Co.....	Albion, Mich. ....	Albion, Gale
24. Galesburg-Coulter Disc Co....	Galesburg, Ill. ....	Galesburg, Brown
25. Grand Detour Plow Co.....	Dixon, Ill. ....	Grand Detour, New Grand Detour
26. Hancock Disc Plow Co.....	Alton, Ill. ....	
29. Janesville Machine Co.....	Janesville, Wis. ....	Budlong, Janes- ville
30. Johnston Harvester Co.....	Batavia, N. Y. ....	Johnston Conti- nental
31. Kingman Plow Co.....	Peoria, Ill. ....	Kingman
33. Roderick Lean Mfg. Co.....	Mansfield, O. ....	Lean, Roderick, Roderick Lean
37. P. P. Mast & Co.....	Springfield, O. ....	Buckeye
38. Moline Plow Co.....	Moline, Ill. ....	Economy
42. Ohio Mfg. Co.....	Upper Sandusky, Ohio.....	Ohio
44. Parlin & Orendorff Co.....	Canton, Ill. ....	Canton, Star
45. Peru Plow & Wheel Co.....	Peru, Ill. ....	Peru
46. Racine Sattley Co.....	Springfield, Ill. ....	Governor Sattley, Jr.
48. Rock Island Plow Co.....	Rock Island, Ill. ....	Bonanza, Defiance Little Bonanza
49. St. Joseph Plow Co.....	St. Joseph, Mo.....	St. Joseph
56. Thomas Mfg. Co.....	Springfield, Ohio.....	Southern, Thomas
57. J. Thompson & Sons Mfg. Co..	Beloit, Wis. ....	Eclipse
60. W. A. Wood M. & R. M. Co...	Hoosick Falls, N. Y. ....	Walter A. Wood

## HARROWS.

(Disc. Orc. Hard, Reversible.)

1. B. F. Avery & Sons.....	Louisville, Ky. ....	Avery's Eureka
4. Deere & Mansur Co.....	Moline, Ill. ....	California, Deere, Deere Universal
8. Johnston Harvesting Co.....	Batavia, N. Y. ....	Johnston
9. Kingman Plow Co.....	Peoria, Ill. ....	M. K.
12. Moline Plow Co.....	Moline, Ill. ....	Moline
14. Ohio Rake Co.....	Dayton, Ohio ....	Atlanta
16. Racine-Sattley Co. ....	Springfield, Ill. ....	Racine-Sattley
19. W. A. Wood M. & R. M. Co...	Hoosick Falls, N. Y. ....	Walter A. Wood

## HARROWS.

(Spike Tooth, Steel Frame.)

Name.	Address.	Trade name.
3. B. F. Avery & Sons.....	Louisville, Ky. ....	Avery
6. E. Bennett's Sons.....	Lansing, Mich. ....	Bement
10. David Bradley Mfg. Co.....	Bradley, Ill. ....	Bradley
12. Brown Mfg. Co.....	Zanesville, Ohio ....	Brown
13. Bucher & Gibbs Plow Co.....	Canton, Ohio....	Imperial, Imperial Zig Zag
15. J. I. Case Plow Works.....	Racine, Wis. ....	Crittie, J. I. Case
19. Deere & Co.....	Moline, Ill..	Deere, Deere Universal
22. Eagle Mfg. Co.....	Kansas City, Mo.....	Eagle
23. Emerson Mfg. Co.....	Rockford, Ill. ....	Emerson
27. Gale Mfg. Co.....	Albion, Mich. ....	Gale
28. Grand Detour Plow Co.....	Dixon, Ill.....	Grand Detour
29. Hancock Disk Plow Co.....	Alton, Ill. ....	Hancock, LaDow
31. Hays Pump & Planter Co.....	Galva, Ill. ....	Hayes
37. Janesville Mach. Co.....	Janesville, Wis. ....	Janesville
41. Kingman Plow Co.....	Peoria, Ill. ....	Kingman
44. Roderick Lean Mfg. Co.....	Manfield, O.....	Lean, Roderick, Roderick, Lean
46. McGowan & Finnigan F. & M. Company . ....	St. Louis, Mo.....	M. & F.
48. Moline Plow Co.....	Moline, Ill. ....	Moline
52. Parlin & Orendorff Co.....	Canton, Ill....	Canton Climax Dia- mond, Favorite Guard Round Bar
54. Peru Plow Co.....	Peru, Ill. ....	Peru
56. Racine Sattley Co.....	Springfield, Ill.....	Sattley, Togo
58. Rock Island Plow Co.....	Rock Island, Ill.....	Rock Island
61. Sparta Plow Works.....	Sparta, Ill. ....	Sparta
68. J. Thompson & Sons Mfg. Co..	Beloit, Wis. ....	Champion
70. W. A. Wood M. & R. M. Co...	Hoosick Falls, N. Y....	Walter A. Wood

## HARROWS.

(Spring and Spike Tooth Combined.)

1. Hancock Disc Plow Co.....	Alton, Ill. ....	LaDow
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## HARROWS.

(Spring Tooth, Steel Frame.)

12. Gale Mfg. Co.....	Albion, Mich. ....	Albion
24. W. A. Wood M. & R. M. Co..	Hoosick Falls, N. Y....	Walter A. Wood

## HAY LOADERS.

3. Deere & Mansur Co.....	Moline, Ill..	Deere and New Deere
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## HAY PRESSES.

(One Horse.)

Name.	Address.	Trade name.
Sandwich Mfg. Co.....		
Dain Mfg. Co.....		
Rock Island Plow Co.....		
3. Ohio Cultivator Co.....	Bellevue, O. . . . .	Ohio

## HAY PRESSES.

(Two-Horse.)

1. Admiral Hay Press Co.....	Kansas City, Mo.....	Admiral
2. Ann Harbor Machine Co.....	Ann Arbor, Mich.....	Ann Arbor
3. Auto Fedan Hay Press Co.....	Topeka, Kans.....	Auto, Fedan
5. David Bradley Mfg. Co.....	Bradley, Ill.....	Bradley
7. Chattanooga I. & M. Co.....	Chattanooga, Tenn..	Chattanooga, Chickamauga, New Chicka- mauga, Royal
8. Collins Plow Co.....	Quincy, Ill. . . . .	Eli, Noval
9. Dain Mfg. Co.....	Ottumwa, Ia. . . . .	Dain
11. Eagle Mfg. Co.....	Kansas City, Mo.....	Eagle
12. Eclipse Hay Press Co.....	Kansas City, Mo.....	Eclipse
13. Geo. Ertel Co.....	Quincy, Ill.....	Economy, Gem, Star, Victor
18. Kansas City Hay Press Co....	Kansas City, Mo....	Lightning, Lightning, Jr.
13. Midland Mfg. Co.....	Tarkio, Mo. . . . .	Midland
15. Ohio Cultivator Co.....	Bellevue, O.....	
27. Parsons Band Cutter & S. F. Co. . . . .	Newton, Ia. . . . .	Buffalo
31. St. Joseph Plow Co.....	St. Joseph, Mo.....	St. Joseph
32. Sandwich Mfg. Co.....	Sandwich, Ill..	America, New Way, Sandwich, South- wick, Western
33. Scott Hay Press Co.....	Kansas City, Mo.....	O. K. X. L.
35. H. N. Strait Mfg. Co.....	Kansas City, Kans.....	National
36. Western Steel & Wire Co.....	Kansas City, Mo....	New Century
37. Whitman Mfg. Co.....	St. Louis, Mo....	Colonial, Eclipse Steel Beauty, Universal

## HAY RAKES.

(Side Delivery.)

2. Dain Mfg. Co.....	Ottumwa, Ia. . . . .	Dain's
3. Deere & Mansur Co.....	Moline, Ill. . . . .	Deere
6. Sandwich Mfg. Co.....	Sandwich, Ill. . . . .	Sandwich

## HAY RAKES.

(Sulky Hand Dump.)

Name.	Address.	Trade name.
1. Acme Harvesting Mach. Co.	Peoria, Ill. . . . .	Acme, Laddie, Tommy Atkins
2. David Bradley Mfg. Co.	Bradley, Ill. . . . .	Queen
5. Deere & Mansur Co.	Moline, Ill. . . . .	New Deere, Deere
7. Emerson Mfg. Co.	Rockford, Ill. . . . .	Standard Sandow
8. Fuller & Johnson Mfg. Co.	Madison, Wis. . . . .	Fuller & Johnson
10. Hoeking Valley Mfg. Co.	Lancaster, Ohio. . . . .	Hoeking Valley
13. Ohio Rake Co.	Dayton, Ohio. . . . .	Hollingworth, Steel King
17. St. Joseph Plow Co.	St. Joseph, Mo. . . . .	
19. Thomas Mfg. Co.	Springfield, Ohio. . . . .	Thomas, Western
21. W. A. Wood M. & R. M. Co.	Hoosick Falls, N. Y. . . . .	Walter A. Wood

## HAY RAKES.

(Sulky, Self-Dump.)

1. Acme Harvesting Machine Co.	Peoria, Ill. . . . .	Acme Lassie
2. David Bradley Mfg. Co.	Bradley, Ill. . . . .	Queen
7. Deer & Mansur Co.	Moline, Ill. . . . .	Deere, New Deere
12. Johnston Harvester Co.	Batavia, N. Y. . . . .	Johnston
15. Ohio Rake Co.	Dayton, Ohio. . . . .	Ohio Champion
22. Thomas Mfg. Co.	Springfield, Ohio. . . . .	Steel Reliable
26. Walter A. Wood M. & R. M. Co.	Hoosick Falls, N. Y. . . . .	Walter A. Wood

## HAY RAKES.

(Sweep.)

1. Acme Harvesting Machine Co.	Peoria, Ill. . . . .	Acme Giant, Acme
2. A. T. Boney & Co.	Cairo, Mo. . . . .	Boney's
3. Thos A. Barley.	Sedalia, Mo. . . . .	Boss, Excelsior Jumbo, Katy
7. Dain Mfg. Co.	Ottumwa, Ia. . . . .	Dain's Folding, Dain's New Idea, Dain's Pipe Axle, Dain's Power Lift, Dain's Truss Frame
8. Eagle Mfg. Co.	Kansas City, Mo. . . . .	Eagle
9. Eclipse Hay Press Co.	Kansas City, Mo. . . . .	Eclipse
10. Farm Tool Mfg. Co.	Carrollton, Mo. . . . .	Advance, American Favorite
11. Fleming & Sons Mfg. Co.	Huntsville, Mo. . . . .	Fleming
15. Jenkins Hay Rake & Stacker Co.	Browning, Mo. . . . .	Climax, Jenkins
16. Kansas City Hay Press Co.	Kansas City, Mo. . . . .	Champion
18. McCall Mfg. Co.	Macon, Mo. . . . .	
19. Midland Mfg. Co.	Tarkio, Mo. . . . .	Midland
21. Scott Hay Press Co.	Kansas City, Mo. . . . .	
22. Smith & Sons Mfg. Co.	Kansas City, Mo. . . . .	Royal

## HAY STACKERS.

Name.	Address.	Trade name.
2. Thos. K. Barley.....	Sedalia, Mo.....	Barley Giant
3. A. T. Boney & Co.....	Cairo, Mo.....	
8. Eagle Mfg. Co.....	Kansas City, Mo.....	Eagle
9. Eclipse Hay Press Co.....	Kansas City, Mo.....	Eclipse
10. Farm Tool Mfg. Co.....	Carrollton, Mo.....	American
11. Fleming & Sons Mfg. Co.....	Huntsville, Mo. . . . .	Fleming
14. Jenkins Hay Rake & Stacker Co. . . . .	Browning, Mo.....	Climax, Jenkins
15. Kansas City Hay Press Co....	Kansas City, Mo.....	Champion, Lightning
20. Scott Hay Press Co.....	Kansas City, Mo.....	O. K.
21. Staleup Hay Stacker Mfg. Co.	Unionville, Mo.....	Staleup
22. Superior Hay Stacker Mfg. Co.	Linneus, Mo.....	Superior Superior Rotary
Dain Mfg. Co. . . . .	Ottumwa, Ia. . . . .	Dain

## HAY TEDDERS.

Dain Mfg. Co.....	Ottumwa, Ia. . . . .	Dain
6. Johnston Harvester Co.....	Batavia, N. Y.....	Johnston
9. Ohio Rake Co.....	Dayton, Ohio....	Monarch, O. R. C.
12. Thomas Mfg. Co.....	Springfield, O....	Reliable, Royal Triumph
13. W. A. Wood M. & R. M. Co..	Hoosick Falls, N. Y....	Walter A. Wood

## KNIFE GRINDERS.

(Mower.)

2. Ajax Mfg. Co.....	Pittsburg, Pa.....	Vulcan
3. Chicago Steel & Mfg. Co.....	Chicago, Ill....	Crown, Gem, Jewel
7. R. Herschel Mfg. Co.....	Peoria, Ill. . . . .	Herschel, New Model

## MANURE SPREADERS.

1. Appleton Mfg. Co.....	Batavia, Ill. . . . .	Appleton
6. Kemp & Burpee Mfg. Co.....	Syracuse, N. Y....	Kemp, Success
7. Litchfield Mfg. Co.....	Waterloo, Ia.....	Litchfield
8. Mandt Wagon Co.....	Stoughton, Wis. . . . .	National
10. Newark Machine Co.....	Newark, O. . . . .	Miller
13. Richardson Mfg. Co.....	Worcester, Mass..	Worcester, Kemp
15. E. W. Ross Co.....	Springfield, O.....	Ross
17. D. M. Sechler Carriage Co....	Moline, Ill. . . . .	Black Hawk
18. Smith Mfg. Co.....	Chicago, Ill. . . . .	Great Western



## MOWERS.

Name.	Address.	Trade name.
1. Aeme Harvesting Machine Co.	Peoria, Ill.	Aeme Giant, Aeme Hodges
2. Adriance, Platt & Co.	Poughkeepsie, N. Y.	Adriance
3. M. M. Baker & Co.	Peoria, Ill.	Baker
4. Dain Mfg. Co.	Ottumwa, Ia.	Dain
5. Emerson Mfg. Co.	Rockford, Ill.	New Standard
8. Johnston Harvester Co.	Batavia, N. Y.	Johnston
16. Thomas Mfg. Co.	Springfield, O.	Crown
17. Weber Imp. Co.	St. Louis, Mo.	Koenig Buckeye
18. W. A. Wood M. & E. M Co.	Hoosick Falls, N. Y.	Walter A. Wood

## REAPERS.

1. Aeme Harvesting Machine Co.	Peoria, Ill.	Hodges
2. Adriance Platt & Co.	Poughkeepsie, N. Y.	Adriance
3. Johnston Harvester Co.	Batavia, N. Y.	Johnston Conti- nental
6. W. A. Wood M. & R. M. Co.	Hoosick Falls, N. Y.	Walter A. Wood

	Location.	Estimated Sales 1907, Tons.	Capacity (tons) (day run only.)
3. Edwin H. Filler & Co.	Philadelphia, Pa.	1,000	5,000
4. J. C. Croendyke Co.	Chicago, Ill.	4,000	3,000
5. Hooven & Allison.	Zenia, O.	2,500	4,000
7. R. A. Kelley Co.	Xenia, O.		500
8. Kentucky River Mills.	Frankfort, Ky.		
9. Ludlow Mfg. Assn.	Boston, Mass.	3,000	3,000
12. Peoria Cordage Co.	Peoria, Ill.	2,500	4,000
13. Plymouth Cordage Co.	Plymouth Mass.	20,000	20,000
15. St. Louis Cordage Co.	St. Louis, Mo.	2,000	2,000
26. Missouri Prison.	Jefferson City, Mo.	450	1,500

## WOOD SAWING MACHINES.

(Gasoline, Portable.)

5. Baker Mfg. Co.	Evansville, Wis.	Baker
8. Challenge Co.	Batavia, Ill.	Challenge
11. Fairbanks-Morse & Co.	Chicago, Ill.	Fairbanks, Morse
15. Foos Gas Engine Co.	Springfield, O.	Foos

## WAGONS.

Name.	Address.	Trade name.
1. Abingdon Wagon Co.....	Abingdon, Ill....	Abingdon, Clinton
5. Avery Mfg. Co.....	Peoria, Ill. . . . .	Avery
6. Bain Wagon Co. Ltd.....	Kenosha, Wis. . . . .	Bain
11. Birdsell Mfg. Co.....	So. Bend, Ind. . . . .	Birdsell
17. Brown Mfg. Co.....	Zanesville, O. . . . .	Brown
23. Champion Wagon Co.....	Oswego, N. Y. . . . .	Champion
24. Chattanooga Wagon Co.....	Chattanooga, Tenn. . . . .	Chattanooga
27. Coquillard Wagon Works.....	Henderson, Ky. . . . .	
28. Davenport Wagon Co.....	Davenport, Ia. . . . .	Davenport
31. Electric Wheel Co.....	Quincy, Ill. . . . .	Electric
32. Empire Mfg. Co.....	Quincy, Ill. . . . .	
34. Fish Bros. Mfg. Co.....	Clinton, Ia. . . . .	Fish Bros.
35. Fish Bros. Wagon Co.....	Racine, Wis. . . . .	Fish Bros.
36. Flint Wagon Works.....	Flint, Mich. . . . .	Flint
39. Fort Smith Wagon Co.....	Fort Smith, Ark. . . . .	Fort Smith
40. Fuller & Johnson Mfg. Co....	Madison, Wis. . . . .	Badger
43. Harrison Wagon Co.....	Grand Rapids, Mich. . . . .	Harrison
47. Hickman-Ebert Co. . . . .	Owensboro, Ky. . . . .	Ebbert
48. Hickman Wagon Co.....	Hickman, Ky. . . . .	Hickman
50. Indiana Wagon Co.....	Lafayette, Ind. . . . .	Indiana
52. Ionia Wagon Co.....	Ionia, Mich. . . . .	Bible
54. Jonesboro Wagon Co.....	Jonesboro, Ark. . . . .	Jonesboro
55. Karges Wagon Co.....	Evansville, Ind. . . . .	Karges
56. Keller Mfg. Co.....	Corydon, Ind. . . . .	Corydon
58. Keller Mfg. Co.....	Joplin, Mo. . . . .	Keller
59. Kentucky Wagon Mfg. Co....	Louisville, Mo. . . . .	Kentucky, Hickory
61. Henry Knapheide Wagon Co..	Quincy, Ill. . . . .	Knapheide
63. Lang & Bro.Mfg. & Mer. Co..	Farmington, Mo. . . . .	Lang
67. Linstroth Wagon Co.....	St. Louis, Mo. . . . .	Linstroth
69. Luedinghaus-Espenschied Wagon Co. . . . .	Wagon Co. St. Louis..	Luedinghaus
72. Mandt Wagon Co.....	Stoughton, Wis. . . . .	Mandt
73. Milburn Wagon Co.....	Toledo, O. . . . .	Milburn
74. Miller Wagon Co.....	Edina, Mo. . . . .	Miller
75. Mitchell & Lewis Co. Ltd.....	Racine, Wis. . . . .	Mitchell
77. Moline Plow Co.....	Moline, Ill. . . . .	Moline, New Moline The Moline
82. Newton Wagon Co.....	Batavia, Ill. . . . .	Newton
86. O'Brien Wagon Works.....	Shenandoah, Ia. . . . .	O'Brien
89. Owensboro Wagon Co.....	Owensboro, Ky. . . . .	Owensboro
92. Peoria Wagon Co.....	Peoria, Ill. . . . .	Peoria
94. Piedmont Wagon Co.....	Hickory, N. C. . . . .	Piedmont
96. Racine-Sattley Co.....	Racine, Wis. . . . .	New Sattley, Racine
102. Peter Schuttler. . . . .	Chicago, Ill. . . . .	Schuttler
105. Springfield Wagon Co.....	Springfield, Mo. . . . .	Springfield
106. Stoughton Wagon Co.....	Stoughton, Wis. . . . .	Stoughton
108. Studebaker Bros. Mfg. Co....	So. Bend, Ind. . . . .	Studebaker
114. Troy Wagon Works Co.....	Troy, O. . . . .	Troy
115. Turnbull Wagon Co.....	Defiance, O. . . . .	Turnbull
116. Joel Turney & Co.....	Fairfield, Ia. . . . .	Charter Oak
120. Winona Wagon Co.....	Winona, Minn. . . . .	Winona

Hon. Theo. Brace, Commissioner:

Q. You spoke of the prices of binders and mowers from 1878 down to 1902, as being the price to the farmer and the dealer at a certain commission on that price? A. Yes, sir.

Q. What I want to know and inquire now is whether up to that time these manufacturers fixed the price that the machine should be sold to the farmer and then allowed the dealer a certain commission on that price? A. With the Walter A. Wood Company we invariably had a printed list in the contract, and stipulated in the contract that from that list the dealer was to be paid a commission of 20 per cent. on the time basis, and that list fixed the price which the machines should be sold to the farmer.

A. Well, I don't know. Do you mean in the sense they had to sell it at that price?

Q. That the price fixed by the manufacturer that it was to be sold to the farmer? A. Yes, sir.

Q. And then he was allowed his commission on that price? A. Yes, sir.

Q. Is that the case with the other companies? A. I cannot answer.

Q. You only speak of the Walter A. Wood Company? A. Yes, sir.

Examination resumed by Hon. Selden P. Spencer, counsel for Respondent:

Q. Did he have to sell at that price? A. No, sir; if he made any reduction at all, he did from his commission; we began figuring from that list; if he made a reduction we did not take his commission off and then figure. We figured his machines netted him so much after taking the commission off from the list.

Hon. Theo. Brace, Commissioner:

Q. You only speak of the Walter A. Wood Company? A. Yes, sir; the other companies I did not write any contracts up until 1897.

Hon. Theo. Brace, Commissioner:

Q. How was it with the Milwaukee Company in 1897? A. The Milwaukee Company fixed the net price.

Q. To the dealers? A. Yes, sir. It had no reference to the list price.

Hon. Theodore Brace, Commissioner:

Q. It had no commission on it? A. No, sir; I was testifying from the Wood entirely.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. You are employed by the International Harvester Company of America? A. Yes, sir.

Q. Have you any connection at all with the International Harvester Company of New Jersey? A. No, sir.

Q. Now you began working for the International Harvester Company of America immediately upon the organization of that Company? A. Yes, sir.

Q. 1902? A. The fall of 1902.

Q. What were your duties as their employee during the fall of 1902, and the year of 1903? A. We sold the goods, wrote the contracts, I handled the travelers who wrote the contracts with the different agents and kept the accounts.

Q. What if anything did you have to do with the collection of the notes and accounts? A. We did not have the collection of the notes and accounts.

Q. You had nothing to do with them? A. No, sir.

Q. Have not had since that time? A. No, sir.

Q. Did they have a special representative in St. Louis for that purpose? A. Yes, sir.

Q. Who was that? A. I think Mr. F. J. Henley. I think he was the first man that came to St. Louis, he was succeeded by F. D. Luther, Luther is the name I think.

Q. Now the same parties that represented the International Harvester Company of America in the collection of their accounts represented these various companies that went into the International Harvester Company of America in the collection of their accounts, did they not? A. I don't know as to that, I had no connection with the collection department.

Q. Did you in your capacity as a representative of the International Harvester Company of America have anything to do with any note in any manner, shape or form with any of the others of any companies that went into the International Harvester Company of America after you became an employee of the International Harvester Company of America? A. No, sir.

Q. Did you make any report of any kind to the International Harvester Company of New Jersey? A. No, sir.

Q. Who fixes the price that you fix to your local agents? A. That is fixed by the sales department of the International Harvester Company of America at Chicago.

Q. That is fixed there and sent to you and you fix that price to the local agents? A. Yes, sir.

Q. That price is never varied? A. No, sir.

Q. Now, before 1902, the various companies that later went into the International Harvester Company of America were engaged solely in manufacturing and selling harvesters and binders, that is, binders and mowers and harvester machines, were they not? A. Well, the Osborne Company had a line of peg tooth and spring tooth harrows.

Q. That was all they did have? A. Yes, sir.

Hon. Theo. Brace, Commissioner:

By the Harvester business you mean the binder and mower? A. Yes, sir.

Q. The Deering, the Plano, and Champion and McCormick, they manufactured and sold nothing but binders and mowers? A. As far as I know. And twine, they all handle twine. The Milwaukee Company, I can speak for them, they handled twine, but did not manufacture twine.

Q. What year did you first learn of the Osborne Company having

gone into the International Harvester Company? A. In the fall of 1904.

Q. 1904, then during the selling season of 1904 and 1903, the Osborne was operated apparently as an independent concern in this state? A. As far as I know.

Q. Even your general agency, you know different? A. I think not.

Q. How about the Keystone Company, do you know about the Keystone Company having been purchased by the International Harvester Company, and if so, when? A. Well, from my own personal knowledge I don't know they were purchased by the International Harvester Company.

Q. How about the Minnie Harvester Company? A. Personally, I don't know that either.

Q. You never have been informed as to that? A. No, sir.

Q. When did you first learn of the Weber Wagon Company having been purchased by the International Harvester Company? A. I cannot call to mind that I have ever been told.

Q. Then you do not even yet know that the Weber Wagon is manufactured by the International Harvester Company? A. As far as my personal knowledge ——— I know we are selling their wagon.

Q. When did you first commence selling their wagon? A. I think in 1904, along in August I think.

Q. You get your Weber account from the International Harvester Company of America, don't you? A. Yes, sir.

Q. Do you handle any of the implements formerly manufactured by the Keystone or now manufactured by the Keystone Company? A. Yes, sir.

Q. From whom do you get these implements? A. We get these from the International Harvester Company of America at Chicago or through them.

Q. When did you first begin ordering these implements from the International Harvester Company? A. My recollection is that in 1905.

Q. Then during 1903 and 1904, that company apparently operated in this state as an Independent Company in connection with the International Harvester Company of America? A. As far as I know.

Q. Do you handle some of the implements manufactured by the Minnie Harvester Company? A. No, sir.

Q. You never have done that? A. No, sir.

Q. Is the Minnie doing business? A. No, sir; not as I know of.

Q. How long since they quit? A. I cannot answer that, I do not remember.

Q. Have you at any time handled any of the implements or the machines of the Altman-Miller Buckeye Company? A. No, sir.

Q. Is that company doing business now? A. No, sir.

Q. When did they quit? A. My recollection is they went into the hands of a receiver along in 1900, in 1900.

Q. Were they not doing business in 1902? A. The machines were being sold.

Q. You are talking about when they went out of business? A. I say my recollection is they were in the hands of a receiver sometime in 1900, but the machines were being sold by the Weber Implement Company, I think, they were offering Buckeye mowers, this year yet.

Q. The Weber Implement Company? A. Yes, sir.

Q. The Buckeye mowers, are not being manufactured yet? A. My recollection is Mr. Weber said they were being built for them by somebody at Peoria, they are not being ———

Q. They are not being built by the Altman-Miller Buckeye Company? A. I think not.

Q. Don't you know as a matter of fact that the Altman-Miller Company was purchased in 1903 by the International Harvester Company? A. No, sir; I do not.

Q. Now what machines besides binders and mowers manufactured by the International Harvester Company are selling on a commission? A. Nothing.

Q. What machines and implements does the International Harvester Company of America furnish repairs to agents to carry on a commission except for binders and mowers? A. Well, I have everything except, possibly I am not sure on the cream separator, whether these repairs are consigned or not. I think not, however.

Q. You do not consign your repairs on the corn shellers and on the corn huskers and shellers, do you? A. If a man has sold a line of that class of goods we let him carry the repairs.

Q. Let him carry as many as he wants to? A. Yes, sir.

Q. Do you let him carry them on gasoline engines? A. Yes, sir. We are carrying some repairs on gasoline engines.

Q. I mean do you scatter them out? A. We would not where a man has sold a few engines, but where we sell a car load of engines and want to protect the trade we vary from our rule and let him carry them.

Q. Do you on harrows? A. A good dealer on disc harrows, we vary our rule.

Q. Your rule is not to carry them? A. Yes, sir; that is the rule, but we do not hold hard to that rule.

Q. What per cent of the business that the International Harvester Company of America does in Missouri, is represented by binders and mowers? A. By binders and mowers?

Q. Yes? A. 39 per cent.

Q. In Missouri? A. Thereabouts. You mean to take the total business you do in Missouri and either the binder and mower trade represents only 39 per cent? Now I can give you the exact figures on my St. Louis territory, our binder business as compared with the whole business is 20 per cent.

Q. As compared to what? A. To the whole business is 20 per cent and a small fraction. And the mower business is 19 per cent and a small fraction, so that the two added would make 39 per cent of the whole business of the International Harvester Company of America in binders and mowers.

Q. It will amount to more than that when you figure the binder and mower business together, will it not? A. No, sir.

Q. When you figure the binder business being 20 per cent of the whole business and the mower business 19 per cent of the whole business the two would make thirty-nine. In figuring that way you figure the mower in one and when you are getting your average on the binder business and when you are getting your average on the mower, you figure your binder business in? A. Yes, sir; we have the items set out separately.

Q. Now give me the other per cent of your business, that is the different implements that represent the balance of your business and the per cent that each implement represents? A. I cannot give you that, I did not take those figures off.

Q. This now represents, I believe, only your territory; you don't know what the per cent in other parts of the state is? A. Not the exact per cent but it would safely hold goods on the other part of the state as compared with the southeastern part.

Q. Now Mr. Funston, in giving these estimates as to the amount of business done by your company and these other companies, upon what do you base these estimates? A. On figures given to me by other concerns who do business in the same territory.

Q. Now has the Johnston Company given you the number of binders and mowers they have sold in your territory in the last year? A. Not the number, in talking with Mr. Dennison he would figure a certain per cent he was getting, and I know at a good many points how many machines he would sell, he would sell and there are other points on the territory we don't know.

Q. How do you get the exact number of the machines they sell? A. From the men who are selling our machines and others, that is, I take their word for it when they tell me.

Q. You do not mean to say that you have enough of information from these agents that you can make the estimate of the business for the entire state on their statements, do you think in any degree of accuracy? A. Well.

Q. Can you? A. You are talking about the Johnston, as I tell you I have got to rely largely on my knowledge of Missouri, I at one time handled the entire state of Missouri on the Walter A. Wood, and I got to know the state pretty well.

Q. Now you could not give me an idea of the number of binders sold in the different counties by the independent companies could you? A. Not except as applying my territory to the whole.

Q. Do you have your block men or agents report to you the number of sales made by the independent companies? A. We generally try to keep posted.

Q. Have you employees for that purpose? A. No, sir.

Q. Can you tell me the number of binders that the Acme sold in Missouri last year? A. No, sir.

Q. Can you tell me anything like in any degree of certainty about what it is? A. Except as the estimate.

Q. Well, how many binders? A. I would not undertake to say



by a certain number of binders as I testified here figuring 75 to 80 per cent of our business I judge that by what is going on in my territory, I figure they are as active in other territories as mine.

Q. Can you tell how many Aeme binders were sold in your territory? A. No, sir; not the exact number.

Q. Give me the number you used in making your estimate of 75 per cent? A. I have no figures with me.

Q. You had to have some figures to arrive at that estimate? A. I have not them with me.

Q. You know how many you sell in your territory? A. Yes, sir; we sold in 1908, 10,019 binders.

Q. How many did you sell in 1909? A. Our sales are not all in.

Q. How about 1907? A. In 1907 we sold 1,204, I think it was.

Q. How about 1906? A. I cannot carry these figures in my mind.

Q. In giving that estimate of 75 to 80 per cent what year did you mean to say that represented? A. About three years average.

Q. Three years back from this time? A. Three years at an average.

Q. What per cent of the binder business was done in 1902 of the companies that later went into the International Harvester Company of America? A. 1902 is going too far back, I was only with the Milwaukee then, I would not have a very good chance to get that estimate for the reason with the Milwaukee I handled the east half of Missouri and the south half of Illinois and Tennessee and Kentucky.

Q. Go ahead? A. My figures would all be together in one group.

Q. At that time you did not undertake to keep such a close watch on the sales made by other companies? A. It was not possible with my big territory to do that.

Q. Would you say that the conditions that existed in 1902 did at least 90 per cent of the business done in Missouri? A. No, sir; I would not want to put it that way, 1902 the Wood and the Minnie was pretty active while it was not, while it would not materially vary the present sale if anything I am inclined to believe the competitors are selling more now than they did at that time.

Q. Now by what means did you arrive at your estimate of the general knowledge of the business done by your company on the entire line? A. In the entire state?

Q. Yes, sir? A. I got a pretty good piece of that from the testimony, the amount the witnesses were testifying to and the amount our witnesses testified to.

Q. Then you have based your conclusions largely on the fact you have heard here? A. You can only get it from talking to dealers in the state. You take it with the settlement of our agents they often say our account is so and so as compared with other business.

Q. In fixing your estimate on the testimony heard today and yesterday you don't know anything about what part of the implement business is done by other dealers in these towns except that that came from your company, do you? A. I do not quite catch that.

Q. Some of the witnesses testified and you say your opinion is based on that? A. I say confirmed, I meant to say confirmed.

Q. Without any confirmation? A. I base it on the talk I had with my dealers and others selling implements in the state.

Q. Do you mean to say Mr. Funston that you have in a general way found out the number of corn huskers and corn shellers and cultivators and cream separators and gasoline engines and harrows and grain head binders, all these things that have been done by these companies in this state? A. I got them. I took that list from my actual experience in meeting these different lines on the territory and in the circulars, my journals and my travelers who have come in competition with them and having seen the tools themselves.

Q. But now in stating that your company does a certain per cent of the business of this state that is done by your company together with all of these other companies you were bound to have some knowledge of the amount of business done by all these competitors, were you not? A. Well, that is simply made by the lists of different dealers that are handling or sold or are in the hands of farmers. I don't know how much business these concerns do.

Q. This does not represent a list of your actual competitors in the state at present? A. That is a list of the present dealers and the present tools being sold.

Q. This is a list of the people that are manufacturing these different tools? A. Let me explain just a moment, the John Deere Plow Company, the Missouri Moline Plow Company, the Parlin and Orendorf Plow Company, the St. Louis Implement Company, the South Bend Iron Works which is the Oliver Chilled Plow Company, and the John D. Mandley Implement Company and the Cordell Bros. and A. J. Childs & Son and the Polk Implement Company and until very recently the Deeds and Manley Company, they are all jobbers, are now jobbers of implements in St. Louis and handle various lines of implements and a large per cent of those that were handled the last year or so were handled by these different concerns and then there are a great many others.

Q. Take it on the cream separators of the United States? A. Cream separators, the De Laval and other concerns have other representatives in the state and are working them as we do.

Q. There are a large number listed here that do the business the same as the International Harvester Company of America, that is they do it by their one concern? A. A great many.

Q. A great many of those concerns are not doing business? A. They do it through a jobber, these goods are sold.

Q. What per cent of the business does your company do on corn huskers in this state? A. Well, I cannot tell you that, what per cent.

Q. What per cent on corn shellers? A. Well, we do a very light per cent on corn shellers.

Q. What would you say, what per cent? A. Well, I question whether it would run over two or three per cent on the corn shellers, two or three per cent.

Q. In the state? A. Yes, sir.

Q. What per cent of your total business in the state is represented by your corn sheller business? A. I don't know.

Q. One-half of one per cent? A. I would not make an estimate.

Q. What per cent of the business done on cultivators in this state is done by your company? A. You mean large cultivators?

Q. You have them listed here as cultivators? S. L. Allen & Company? A. Those are what we call the small five tooth cultivators.

Q. Well, what per cent of that business? A. Our per cent of business on them is very light.

Q. What per cent would you say? A. We would not get more, not over three or four per cent on that.

Q. What per cent of your total business done in this state is represented by three or four per cent of cultivator business? A. I could not give you that figure.

Q. What part of the cream separator business do you do in this state? A. Well, it must be five to ten per cent of it.

Q. What per cent of your total business done in this state is represented by your cream separator business? A. I cannot answer that.

Q. What per cent of the gasoline engine business do you do in this state? A. 40 to 45 per cent.

Q. And what part of your total business in this state is represented by your gasoline engine business? A. I cannot answer that question.

Q. What part of the business do you do on grain binder covers? A. About one-tenth of one per cent.

Q. About one-tenth of one per cent? A. Yes, sir; our trade on binders covers is so small.

Q. What part of the total, your total business is represented by your business on binder covers? A. I could not answer that question.

Q. What part of the business do you do on grain loaders? A. Well, that the grain loader in that list is a combination, it is what we term the push binder.

Q. You have grain headers and corn header binders? A. That is one and the same thing. So there is so far as the machines are concerned, you make a header and if you put one attachment on you make a binder and if you put another attachment on you make a corn binder.

Q. What part of the business do you do in this state on those? A. I cannot tell you.

Q. You don't know what part of your total business is represented by the business on your grain headers? A. No, sir.

Q. What part of the business do you do on harrows? A. That is a very small per cent on the total.

Q. Well, what per cent? A. I would not like to undertake that, there are so many different harrows sold outside that come into the state you could not sell.

Q. Would you say as an estimate you did one per cent of it? A. I would not make an estimate on it, Mr. Revelle.

Q. You don't know what part of your total business is represented by the harrow business? A. No, sir.

Q. You are speaking now of all kinds of harrows? A. I have not mentioned everything in the harrow line, that would include the disc and spring tooth and peg tooth and other kind.

Q. What part of the hay loader business do you do? A. I should say in the hay loader we do possibly ten per cent.

Q. What part of your total business is represented by the hay loader business in this state? A. I cannot answer that.

Q. What part of the business do you do on hay presses, both one horse and two horse power? A. Our per cent of business on hay presses is light. There are a great many hay presses sold.

Q. Well, what per cent? A. I would not want to make an estimate on the hay press business.

Q. You don't know what per cent of your total business then is represented by your business on hay presses? A. No, sir.

Q. How about hay rakes? A. Well, you got us just as bad on hay rakes, there are so many sold.

Q. The same answer on hay rakes? A. Yes, sir.

Q. How about hay stackers? A. Now the same would hold true on the stackers.

Q. How about hay tedders? A. Well, on the tedders we do a better business.

Q. What per cent? A. About 40 per cent.

Q. What part of your total business is represented by your business on tedders? A. I cannot answer that.

Q. How about knife grinders? A. Well, it is hard to make an estimate on the knife grinders, we possibly sell 15 or 20 per cent on knife grinders.

Q. Do you know what per cent of your total business is represented by your business on knife grinders? A. No, sir.

Q. How about manure spreaders? A. Well, we get a better per cent on manure spreaders.

Q. What part? A. Well, we possibly run 40 per cent on manure spreaders.

Q. Do you know what part of your total business is represented by your business on manure spreaders? A. No, sir.

Q. On mowers I believe you say you do what per cent? A. Of our total business?

Q. What per cent of the total mower business in the state do you do? A. I estimate that 60 to 65 per cent.

Q. I believe you stated that your mower business represented about 20 per cent of your entire business? A. 19 per cent.

Q. And reapers? A. I think we sold two reapers last year, not more than three sold in the whole state. There were some reapers sold down in the hilly counties here.

Q. In fact there were not a dozen reapers sold in Missouri in a year? A. Possibly not.

Q. It is scarcely a farm implement in Missouri any more? A. Yes, sir; that is practically true.

Q. You have listed here as having fourteen competitors? A. There are fourteen on the list and if a man wanted a reaper he could get it from any one of these concerns.

Q. How about wood sawing machines? A. Well, there are a great many of those sold.

Q. What per cent of them do you do? A. I would not undertake it.

Q. And the wagons? A. Most every jobber handles a wood sawer.

Q. How about wagons? That is hard to tell.

Q. Now Mr. Funston you have listed here as competitors of yours a number of concerns that you do not find to be very formidable competitors have you not? A. Yes, sir.

Q. You have listed Lang & Bros., Manufacture and Mercantile Company at Farmington, Missouri? A. They sell wagons.

Q. You do not find they are very formidable? A. Around Farmington they do.

Q. Do you know how many wagons they make in a year? A. No, sir; I do not, I don't know, it is hard to get a man away from Lang & Brothers.

Q. He makes a good wagon? A. You bet he does.

Q. Now without having any greater knowledge of the per cent of business that your company does on these various implements that you have listed here as implements in which your company deals. You do not mean to say your estimate was of the per cent of business done by your company on all these various lines in this state that your total estimate is anything like an accurate one? A. I would not say it was to a close per cent on that.

Q. Because you have no knowledge of the number of binders or mowers sold by your competitors in Missouri? A. No, sir.

Q. You have no knowledge or even very general information of the number of wagons sold by this long list of competitors? A. No, sir; it is an impression we could not say the number of wagons sold, we get the impression in seeing the different wagons on sale.

Q. That is true of your entire testimony on all these lines? A. It is the only basis that a man could work from from what he knows by having talked with men, there is no way I could get in a man's books and see what business he is doing.

Q. How many of these companies in which corn huskers and shellers are listed, do you come in competition with and how many are represented in this state by one company; you have sixteen companies listed as competitors on corn huskers, how many are doing business themselves? A. As direct or jobbers?

Q. How many direct? A. John Deere Plow Company sell direct, and the Milwaukee Hay Tool Company, they have sold this last year direct. The Advance Thresher Company sell only direct. The others are handled, I think, through jobbers.

Q. Perhaps all may be represented by one jobber as far as you know? A. No, sir; the Kingland people handle one line that is handled at Joliet, that is the Taylor Husker & Sheller Company.

Q. How about gasoline engines? A. You want those that are handled direct or through a jobber?

Q. Give me those handled direct? A. The Foos Gas Engine Company at Springfield, Ohio, The Foos Manufacturing Company of Springfield, and the Kansas City Hay Press Co., Kansas City, Missouri, and the C. P. & J. Laus Company, Milwaukee, Wisconsin, and the Milwaukee Machinery Company, Milwaukee, Wisconsin, McGowan & Finnigan, St. Louis, and the New Era Gas Engine Company, Dayton, Ohio, and the Olds Gas Power Company, Lansing, Michigan, the Otto Gas Engine Works, Philadelphia, Pa., the Charles Sinning Machine Works, St. Louis, Missouri, and the Charles A. Stickney Company, St. Paul, Minnesota.

Q. In going down the line on these people, tell what places they are located, what places they are doing business in this state? A. Take the Weber Gas Engine Company, they are at Kansas City, Missouri, in the St. Louis territory, that is handled through the Weber Implement Company, I don't know whether they do business in the western part of the state direct or not. That is about the list of those that I know are handling direct, there may be a great many others handling direct, the Fairbanks, Morse Company I passed over it, they are handling direct, there are about thirteen out of sixty.

Q. You don't know whether these other companies are doing business here in any way other than merely having seen or being told of some of the engines being in the state, is that it? A. Well, I know different ones of those companies, their machines are handled through jobbers in St. Louis.

Q. You don't know how many are sold? A. Of the identical engines?

Q. Yes? A. No, sir.

Q. You know nothing about the capital stock of the companies that make them? A. No, sir.

Q. Or about the general nature or character of the engines? A. Well, a good many of the engines I am pretty well, while others I am not.

Q. And a great many other concerns made other small machines other small concerns manufactured, but very few engines? A. Yes, sir.

Q. That is true of the companies all the way through your list? A. Yes, sir; generally true.

Q. Now, Mr. Funston, you stated that the repairs for 1910 are to be reduced in price net to the agent? A. To the agent our list on what we call current repairs for 1910, is lower to the agent than in 1909. I don't know what the list price is.

Q. These repairs are made in the same manner and at the same cost as that particular part which actually goes into the binder when it is put up as made? A. It is the same stock I understand.

Q. Now in making a certain piece that is to be furnished the agent as a repair, that same piece that is made to go into the binder they are all set up and sold as made in the same way and out of the same material? A. Yes, sir.

Q. It is not known whether that piece is to be used as a repair or a piece of the machine you are to construct? A. I think not.

Q. You have received notice that prices on repairs will be reduced for 1910? What decrease has been made on the machine for 1910?

A. We have not been advised of any.

Q. Has repairs decreased since 1902? A. Yes, sir. Small repairs have.

Q. When did that decrease occur? A. Do you mean when did we get notice?

Q. When did the decrease take place prior to this time occur?

A. That was when the 1908 list came out.

Q. The 1908 list came out? A. Yes, sir; for the season of 1908. There was a decrease made in the repairs for the 1908 season. There was a change in the list, they get out a new list every year.

Q. Now the 1908 list when it came out it showed a change in these parts I spoke of? A. Yes, sir.

Q. And that list was to govern the prices in repairs for the season of 1908, was it? A. Yes, sir.

Q. Now it was that year they increased the price of the binders? A. Yes, sir; 1908.

Q. You spoke of some parts that were taken over by the International Harvester Company of America from the Osborne Company, was that taken over by the International Harvester Company of America or New Jersey? A. We got our letter from the International Harvester Company of America.

Q. You don't know anything about who holds title to it? Which company? A. I ought to know that because I paid taxes there, I cannot answer that question.

Q. That was the only property the same property, the Osborne Company had there individually or was it a separate corporation before it went into the International Harvester Company of America? A. That was the same property the Osborne people were doing business in when their business was turned over to me.

Q. They have no property in St. Louis or southeast Missouri that you in accepting property that had formerly been theirs that had formerly been owned by some of the companies that later went into the International Harvester Company of America? A. Not from my own personal knowledge.

Hon. Selden P. Spencer, Counsel for Respondent:

Q. Whom do you mean by that—the respondent?

Hon. Charles G. Revelle, Counsel for Informant:

Yes, sir; that is the one I have been talking about for the last ten or fifteen minutes.

Q. You spoke of an unusual year in the harvester business in 1891, that was the year that prices went down, you said \$125.00 on the binder? A. That was the year that prices were disturbed all over the country.

Q. What was the price in 1890, the year preceding that? A. My recollection is in 1890 we were getting \$140.00 for the binder from the farmer.



Q. What did the McCormick and Deering put their machines back to in 1892? A. I think the same basis that the Wood Company was doing business at that time because in 1892 there was no particular disturbance in prices in 1892. We went through without very much trouble.

Q. What was that price, \$140.00? A. The price to the farmer in 1890 was \$130.00, I think a difference of \$7.50 or \$8.00 in cash and time \$132.50 cash, and \$140.00 time to the farmer and it went down and went back again in 1892, it is my recollection the price was \$140.00 on the time price on the two fall time.

Q. With two off to the agent? A. Yes, sir.

Q. That made the machine cost the agent \$112.00? A. Yes, sir.

Q. Do you remember what the price was in 1893? A. My recollection now is that price remained stationary to about 1896.

Q. 1896? A. Yes, sir.

Q. Then what took place? A. Then the Woods Company got into the hands of a receiver and I think in 1895 we had our trouble and there was about two years there that I was practically out of the binder business so far as the general trend of the concern was, I only during the time marketed a few machines, they were in the hands of the receiver.

Q. From 1902 these machines reduced in price until they reduced to \$95.00 to the dealer from 1897 to 1898? A. My recollection of the cash price on the Milwaukee was \$100.00 and time price \$105.00, and that I think would hold good for 1899, and in 1900 the Milwaukee price went up to \$105.00 cash and \$110.00 time.

Q. When did it get down to \$95.00? A. In 1891 that came back to \$100.00 and \$105.00, and then in 1892.

Q. 1902? A. 1902 they were \$97.50 and \$102.50, and remained at that until the price was adjusted on the International Harvester Company of America basis on \$95.00 cash and \$100.00 on time.

Q. Do you know what the price of the McCormick was in 1902 to the agent? A. Not except what we found when we went to contract for 1904. Now the McCormick price for 1903 was \$95.00 cash and \$100.00 time for the machine with the bundle carrier.

Q. That was fixed by the International Harvester Company? A. That is in 1902 I should say.

Q. You found it was \$95.00? A. Yes, sir; but they charge \$4.00 for transport, that made the machine \$99.00 cash and \$104.00 time with a complete transport truck while the Milwaukee was at \$97.50 and \$102.50, the transport went in.

Q. Are you sure you had to pay extra for the McCormick transport in 1902? A. The agents did.

Q. I mean the agents? A. Yes, sir.

Q. Are you sure that is true of the other companies outside of the Milwaukee? A. I don't know about the other companies, I remember distinctly the McCormick was \$95.00 cash and \$4.00 for transport.

Q. The first thing these companies did was to reduce the price on the binders? A. Yes, sir; the prices were reduced.

Q. This machine you spoke of that was sold to Mr. Butler I believe you said was a second hand machine? A. That was the corn binder.

Q. Did he know it was a second hand machine when he bought it? A. He could not help but know it, it had been returned to me. He had never bought it, it was a machine shipped on consignment, the machine was shipped originally to—I think the concern was the Clarke Mercantile Company who was succeeded by the Butler Mercantile Company, the machine was not originally shipped to Mr. Butler's concern.

Q. Are the different makes that are now manufactured by the International Harvester Company shipped from the same points or factories from where they were shipped before the formation of the companies, are they made at the same places? A. They are not all shipped from the same places.

Q. Are they all made at the same place as they were before the formation of the company? A. I think not.

Q. That is true of the McCormick? A. Yes, sir.

Q. And the Deering? A. Yes, sir.

Q. And the Osborne? A. Yes, sir.

Q. And the Champion? A. Yes, sir.

Q. And the Milwaukee is made where? A. At Chicago. It used to be made at Milwaukee.

Q. And the Plano? A. It is made at Chicago.

Q. Why do you people have different catalogs of different machines? A. You mean the repair catalog?

Q. No, sir; you have —— You have different catalogs for each machine? A. Yes, sir.

Q. You have one for the McCormick division? A. Yes, sir.

Q. And one for the Deering division? A. Yes, sir.

Q. Are these catalogs just alike? A. No, sir.

Q. I mean aside from the pictures of the machines? A. Each catalog treats of the machine it is advertising.

Q. What name appears on the catalog, that of the International Harvester Company of America or New Jersey? A. The International Harvester Company of America.

Q. How do the number of agents, solicitors and other employees of the International Harvester Company in this state now compare with the number that was employed by the six companies before the combination? A. In per cent.

Q. In price? A. I could not answer that.

Q. Is there a greater number now or less number? A. Well, there is a less number in all, well there are less in my territory now, but a very few less than in the older days.

Q. You mean a fewer local agents? A. The local agency list has decreased some.

Q. How about your canvassers? A. The list of canvassers has decreased some.

## RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. There is no McCormick division or Deering division or Plano division? A. No, sir.

Q. In the reduction of the number of agents in Missouri is there any lessening in availability of the machines to the farmer? A. No, sir.

Q. What has been the course of availability and accessibility to the farmer? A. That is better than it was in prior to 1903, just as good.

Q. How about the availability of canvassers and experts now as compared with 1903? A. There would be as many as then but a good many agents do not want them, the reason I say that the list or the total agency list is less than it used to be, is, we have agents who handle now three and four of the machines that originally did not handle but the one, so that the machines are now in towns they did not used to be in, and we have a man now with a competitor or a man who across the way dies or goes out of business, who is handling our machine, we can let the other man have it.

Q. Did I understand you to say the property in St. Louis that is now occupied and owned by the International Harvester Company of America, before 1904, was where the Osborne Company did its business? A. Yes, sir.

Q. Did you give me the year the title to the property passed to the International Harvester Company of America? A. 1904.

## RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. You don't know as the title passed to the International Harvester Company of America, that it passed to them? A. I don't know when the title passed.

## RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. When did the International Harvester Company of America take possession? A. In 1904.

Q. Delivered the end of that year? A. I think in December.

Q. You have paid the taxes since then? A. Yes, sir.

Q. Are they not made out to the International Harvester Company of America? A. I cannot say, I could have found that out by looking at our books, at our tax entry.

Q. What is your recollection in the matter? (No answer to above question).

(Witness excused).

Jefferson City, Missouri, November 30th, 1909.

Supreme Court Building, Division Room Number Two:

BE IT REMEMBERED, That on November 30th, 1909, in the Supreme Court Building Room, Division Number Two, in the City of

Jefferson and the State of Missouri, the following witnesses on behalf of the Respondent in the above entitled cause, came before Hon. Theo. Brace, Commissioner, in the above entitled cause, and the following appearances were had at said hearing:

For Informant:

Hon. E. W. Major, Attorney-General of the  
State of Missouri.

Hon. Charles G. Revelle, and

Hon. James T. Blair,

Assistant Attorney-General of the  
State of Missouri.

For Respondent:

Hon. Selden P. Spencer,

Hon. W. M. Williams,

Hon. Edgar A. Bancroft.

JOHN F. STEWART, of lawful age, being duly sworn upon his oath, testifies as follows, on behalf of the respondent:

DIRECT EXAMINATION.

By Hon. Edgar A. Bancroft:

Q. State your name? A. John F. Stewart.

Q. Where do you live? A. I live in Chicago.

Q. What is your business? A. Patent expert.

Q. How long have you been a patent expert? A. 35 years.

Q. In what particular branch of patent expert work have you been chiefly engaged? A. Harvesting machinery.

Q. During all that time? A. Practically all.

Q. With what company or partnership did your business as patent expert, have connection with harvesting machinery, with whom did it begin? A. William Deering.

Q. In what particular kind of harvesting machinery, if there is any particular kind, you have been chiefly interested and employed? A. Binders and mowers.

Q. Are you acquainted with the patents that have been in existence in relation to these two machines during the last 30 years? A. Yes, sir.

Q. Both those that were taken out before that time and those taken out since? A. Yes, sir; both.

Q. You are familiar with the expiration of these patents, are you? A. Thoroughly.

Q. Tell the Commissioner what, if any, basic patents covering the self binder or the mower, either the vertical lift or the other types of mowers now in general use were in existence in 1900? A. I know of no basic ideas covered by patents that had not become public property by expiration of patents, many basic ideas were never patented and hence were from the start public property.

Q. How long prior to 1900, had all these basic patents expired

as far as the harvester is concerned? A. The binder you mean, the harvester proper, I know of none.

Q. The binder? A. Well, all had expired previous to 1900, the only remaining patents covered specific types only.

Q. By specific types do you refer to any essential elements in the self binder and mower as were in them and as are sold in the trade today? A. No, sir; I mean this, for instance—the principles of the knoter, the means for carrying the twine around the gavel, the means for packing the grain into the gavel form, all of these were public property.

Q. Since 1902, where and in what work have you been employed? A. The same patent expert.

Q. In connection with what company or firm? A. The International Harvester Company.

Q. And you are still connected with it? A. Yes, sir.

Q. As the head of this patent expert in your department work? A. Yes, sir.

Q. Since 1903, what has been done by that company to improve the mechanism of those machines if anything has been done? A. Much has been done, some of the features that have been improved have been covered by patents, but taking the art as a whole, they have only been mere details.

Q. What extent of force has the International Harvester Company at work upon the improvements of these machines and others they manufacture? A. That I cannot say, they are very numerous, probably 150 people, maybe more than that, inventors and designers.

Q. Since 1900, is it or is it not true, that so far as patents are concerned, any person could manufacture any one of the binders or mowers substantially as they are which are sold under the name of McCormick, the Deering, Plano, Champion, Milwaukee and Osborne? A. They could be manufactured by any person or concern with very slight changes, just substituting for the specific types that are covered by patents still in force, those changes would not effect the appearance of the machines. I will venture this, that the changes necessary to avoid these specific patents would be so meager that the average farmer would not know the difference between, say the Deering machine, and practically its copy, or say the McCormick machine and practically its copy.

Q. Would or would not these changes materially effect its efficiency? A. Not at all, not at all, for this reason, for every invention there has been produced in past years a great number of devices so that the public or any manufacturer might select elements that would not be covered by patents or should some of them be covered by patents the patents would be so specific that the purchase rights would practically not effect the cost of machines.

Q. Prior to 1902, when the Deering Harvesting Company went out of business, for how many years had you been with that company and its predecessors? A. From 1865, with the exception of a year all told.

Q. During the years that you were patent expert for the Deering Harvester Company it was a partnership, was it not? A. Part of the time at least; yes, sir.

Q. From 1891, as long as it continued in business? A. Oh, yes, sir.

Q. And before that there was a corporation was there? A. Part of the time.

Q. What was the name of the corporation? A. It was a partnership up to the time Mr. Wm. Deering bought out Mr. Gannon in 1879. Then about 1882, I think, it was a corporation for a few years, then it became a partnership, and most of the time was such until the time of this sale.

Q. How does the equipment and expenditures for improvements in these machines made by the International Harvester Company compare with the equipment or expenditure made by the Deering Company when you were connected with that company? A. They are very much greater.

Q. Has there been any lessening on your part or on the part of the course over which you preside and those working with you with the International Harvester Company as compared with the force under you with the Deering Harvester Company and if so what was that? A. The force I have is about the same, the capacity is about the same, but more direct, that is to say it is more level headed, the inventors have not been allowed to wander off after strange gods. I will put it, that is to say, to wander away from the true line which tends to make the machines more perfect, better in all respects.

Q. State whether or not the endeavors of the International Harvester Company have been as constant and strong to improve its machines as the endeavors were of the Deering Company? A. I think it has.

#### CROSS-EXAMINATION.

By Hon. James T. Blair:

Q. In 1908, you were connected with the Deering Company? A. Yes, sir.

Q. Where were you located? A. At Chicago, at the Deering works.

Q. Where are you located now? A. At the city office of the International Harvester Company in Chicago.

Q. What time did you make the change? A. I was moved from the works office to the city office October 1st, 1903.

Q. Now you have charge of the force of inventors and designers for all kinds of International Harvester Company binders and mowers? A. For no kinds.

Q. What is your business now? A. Patent expert and general adviser in the mechanical matters.

Q. Well do you use your general expert knowledge and exert your general managerial powers with respect to the betterment and improvement of all binders and mowers sold by the International Har-

vester Company or with regard only to some particular machine or all machines? A. I have no managerial powers outside of patent matters.

Q. Well confine the question to that and answer it please? A. As far as patent matters are concerned, the scope of my services extends over all lines of manufacturers.

Q. How many different patents are now in force affecting parts or the whole of the Deering machines? A. Machines.

Q. I have reference to the binder and mower? A. There are probably four or five on the mower covering minor details only, and perhaps 12 or 15 on the binders specific also.

Q. Answer the same question with reference to the Milwaukee mower and binders? A. Well, as I have not the figures before me, I am little more than guessing, but I should say about the same.

Q. With reference to the Plano? A. A few less.

Q. The Osborne? A. About the same.

Q. The McCormick? A. Well about the same.

Q. And the Champion? A. A few less I think on the Champion.

Q. On the binders and mowers, then of the makes offered by the International Harvester Company there are something like 100 patents in force? A. Well, and I will add out of the 10,000 that have been granted by improvements in the same line of machinery.

Q. And a great proportion or a great number of that 10,000 have been granted upon parts which had been substituted by the parts now under patents under those patents in existence? A. True.

Q. Now you say the substitution of former parts on which the patents have expired and which have been substituted by other or improved parts covered by present patents are no more efficient than the parts which were formerly used in that connection in the machine? A. I will say this, take for instance the Deering binder, I mention that because I am more familiar with it, it would do just as much good, just as good work in 1882 as it would and can today? It was not so simple, not so strong, neither was it so durable, but it had all the elements working in good hands just as efficient as today.

Q. You eliminate the qualities of durability, simplicity, and strength in making your estimates of the respective values of the parts as they formerly were and as they are now? A. Yes, sir; the improvements have been in strength, durability and to a large extent in efficiency because of the fact they are made simpler and more easily controlled by the operator.

Q. Well it is upon the basis of increased durability and increased simplicity and increased strength that you select a newer patent, newer patented parts rather than the ones that are expired? A. Yes, sir; newer patented parts and newer invented parts, that have been, not been patented. Let me explain—there are more little improvements made that are not patented than are patented.

Q. To a large measure those unpatented newly made improvements are of such a character they are adjustable to and applicable



only to the machines of your company, are they not? A. No, sir; oh, no, sir.

Q. You have a great many parts of your machines unpatented which are applicable to the Acme and Johnston? A. To any binders.

Q. Any binders? A. Yes, sir; or any mowers.

Q. Now as a matter of fact there have been numerous parts formerly patented which have been eliminated in the later days, construction of the binder, have they not? A. Yes, sir.

Q. And the same is true of the mower? A. Yes, sir.

Q. To such an extent probably? A. Yes, sir.

Q. And the binder has been since its introduction as well as the mower in a lesser degree, probably reduced in size and in weight and the number of its parts with almost each season, has it not? A. I cannot say that.

Q. Well what do you say about that? A. I say that for a time efforts were made to reduce the weight of binders in order to reduce the cost, but such reduction was at the expense of the efficiency and the weights have been raised particularly during the last ten years, that has been due and a considerable expense, to substitution of metal for wood parts? A. Not necessarily.

Q. Has it to any extent? A. No, sir.

Q. There has been no wood parts of binders for which metal has been substituted in the last ten years, is that your statement? A. No, sir; there have been a few substitutions of metal where wood was used, but up to ten years, nearly all harvesters and binders were very largely all metal as explained in the statement made a minute ago, I would say that the wooden machines of years ago were very heavy, largely because of the use of cast iron and some of them heavier than the machines of today.

Q. Now you say that the binders are not permitted to wander away, will you explain that statement a little more fully? A. The art has become so fully developed that inventors are not running off after low down binders and such like machines.

Q. In other words, the business and the policy of the International Harvester Company is to perfect their present machine and not to create a new machine? A. I do not say that. I say these binders, these inventors, are not allowed to thresh over old straw as they did for instance, as I said to wander off to get low down binders out after they have proven in the last 30 years practically impossibilities.

Q. Then it is only the strange gods which have been proven valueless, they are not permitted to wander off after? A. Yes, sir; that is right.

Q. The International Harvester Company has accepted the present binder as the final consummation in the binder line as far as the general plan of the machine is concerned? A. I do not think any member of the company or any one connected with it would say that, I would say as an individual that I think that the Harvester binder has reached the culmination that is broadly considered.

Q. Now are there any parts commonly spoken of as repairs which are covered by patents? A. Some of the parts forming the subject matter of the specific patents I have spoken of.

Q. Will you name some of them, please, Mr. Stewart? A. Well the McCormick folding divider is covered by specific patents still in force.

Q. Still in force? A. Yes, sir.

Q. What else? A. The Deering frame by patents still in force, there are several other frames that are not covered by patents, the public has a right to those. There are a number of different frames and certainly it is not prohibited from inventing other frames, too. The broad ideas are all to be used, are all public ideas.

Q. These are the only parts spoken of as repair parts that are covered by patents? A. I did not intend to call these repair parts, but repair parts may be considered as upon the same basis.

Q. Well, will you name any repair parts that are covered by specific patents? A. The McCormick, Pitman is covered by a patent, one of its Pitmans, the Deering Mower Pitman also and of course there are many other things, the McCormick knotter, the frame also is covered by recent patents.

Q. Now will you take the Deering mower you have it in mind, Mr. Stewart, and state the parts of that machine that are now protected by patents? A. Which machine.

Q. The binder? A. The folding divider is constructed, it is covered by a limited patent. I think one patent still remains in force of the bundle carrier, the fingers and the means for sustaining them. There is one or possibly two devices on the binding attachment that is still covered.

Q. You have reference to the knotter? A. There is nothing in the Deering knotter but what is public property, and has been since 1900 and 1901.

Q. Do you think of any others? A. Repairs especially, I do not.

Q. This is not confined to repairs? A. The tongue truck has a patent still in force, exceedingly limited however.

Q. What do you mean by that term limited; confined to one part? A. No, sir; in patent law it means the specific carrying out of the generic idea, there may be thousands of specific ways in which the generic invention may be carried out and may be available, hence I have said that all practically, all generic patents expired several years ago.

Q. Do you think of any other part of the Deering binder covered by a patent? A. I do not call any others to mind, though there are probably others.

Q. How about the mower? A. On the Deering mower as made up to sell up to 1900 and 1902, I will say there was but one patent. There are two patents. Up to the present time on the regular ideal mower there are no patents, the Deering binder is putting out a new mower in which a number of changes have been made, some of them covered by recent patents.

Q. What about the McCormick binder? A. There is one and possibly two on the bundle carrier, the binding attachment is put out

larger for the last two years and embodies one patent, aside from the knotter which is new and covered by patents, further than that I hardly think, yet the folding divider is covered by a limited patent.

Q. Well, the patents on the other mowers and binders of the International Harvester Company are the same or of somewhat similar character and extent? A. Yes, sir.

Q. Now, I have not just fully grasped yet the capacity of which you serve the International Harvester Company, are you the legal expert or inventive expert? A. I am conversant with patent law to such an extent as is necessary, I assume for a patent expert and also to serve as a patent expert.

Q. And what are your duties? A. And my services as a patent expert are directed to consider devices which the Company may wish to adopt or has adopted, and regarding which there may be some patent question.

Q. As far as inventions are concerned? A. As far as inventions are concerned, that was a large part of my work years ago.

Q. You are not called upon to pass upon the practicability of a proper invention? A. Yes, sir.

Q. That a part of your duties? A. Yes, sir; as a practical mechanic of long experience in the field, and to determine from any device—

Q. And to determine from any device that comes to your notice whether it is available for your Company for the purpose of inventing or patenting it or whether it can be used? Or whether the patents have expired? A. That has been true up until the last two years; now when the larger matters are past to me.

Mr. Stewart, I believe you stated that the number of inventors and designers now in the employ of the International Harvester Company was about equal to the number employed by the Deering? A. No, sir; but the number at each of the factories seemed to me to be the same as before the International Harvester Company was formed.

Q. The different inventors and designers work at the factory on which the machines are made? A. Yes, sir; that is true.

Q. You think the number now is equal to the former aggregate? A. Yes, sir; as I say I see it. I have had no opportunity to count them or consult the books.

Q. Were you familiar prior to 1902 with the number of inventors and designers of the Plano, Osborne, McCormick, Milwaukee and Champion Companies? A. Only as I came across them casually.

Q. As a matter of fact, you had no definite knowledge at that time of the number? A. No definite knowledge then, nor have I any real definite knowledge now.

#### RE-DIRECT EXAMINATION.

By Hon. Edgar A. Bancroft:

Q. About how many patents on the average in a year has the International Harvester Company taken out? A. From 50 to 75, I should say.

(Witness excused.)

Hon. Theo. Brace, Commissioner:

A recess will be taken at this time until 9 o'clock a. m. Thursday, December 2nd, 1909.

THURSDAY MORNING, 9 O'CLOCK, DECEMBER 2nd, 1909.

MAURICE KANE, of lawful age, being duly sworn, upon his oath testifies as follows, on behalf of the Respondent:

DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. Maurice Kane.

Q. Where is your home? A. Chicago, sir.

Q. How far is Chicago from here? A. 418 miles.

Q. What position do you hold in the International Harvester Company? A. Manager of experiments, sir.

Q. How long, Mr. Kane, have you been connected with the manufacture of harvesting machinery? A. A little over 38 years.

Q. How long have you been connected with the experimental department in the manufacture of harvesting machinery? A. About 20 years, sir.

Q. With what Company were you first connected? A. With the Warder-Bushnell and Glessner Company, who manufactured the Champion machine.

Q. How long did you continue with them? A. Up to the formation of the International Harvester Company.

Q. And from that time on you have been in the employ of the International Harvester Company? A. The International Harvester Company? A. The International Harvester Company; yes, sir.

Q. What is the scope of the department with which you are concerned? A. To look after the designing and improving of machines?

Q. Do the complaints, if any that come in concerning the working of the machine from their consumers or factories, come to your department? A. Yes, sir; we get all the kicks.

Q. Are you familiar with the patents that are outstanding, and the nature of the same on the several machines and the numbers of them? A. Reasonably so, sir.

Q. How large is the experimental department of which you have charge? A. You mean the number of men?

Q. I mean more in the cost of its upkeep? A. It costs about \$250,000.00 a year, sir; from that to \$300,000; it varies from year to year, but not very much.

Q. From 1902 or 1903, up to the present time, have there been any new devices or improvements on the several machines? A. Not very many, sir; that is strictly new, there has been a great many changes made, but I would not want to set them down as something entirely new or original.

Q. You mean changes that make it more simple or durable, or how? A. Both, sir.

Q. How does the several kinds of the machine, the Champion, the Deering and the McCormick, how do they compare with the machines prior to 1903? A. The machines that are building at the present time I consider them the best machines they have ever built.

Q. Why? A. Because we are doing better work, putting in better material and because we are not handicapped in the way of making changes and improvements; in fact, we are obliged to keep the machines up to a very high standard, or somebody would lose their job.

Q. Are the improvements or changes available to only one machine, the Champion, for example, or the McCormick, for example, or are all the changes available to any and all machines? A. Yes, sir; in many cases we adopt the improvements of one machine for the others as fast as it is thought advisable to make the change.

Q. Can you tell us some of the changes that have been made that have been for the betterment or some of the changes that have been for the betterment of the machine in the last six or seven years since 1903?

A. Do you refer to any particular machine?

Q. Take any one you like? A. Well, we will take the Champion machine the one I was most familiar with, that has been entirely rebuilt in the last two or three years; take the Champion binder, for instance, I am quite sure that the present machine will cost possibly \$5.00 more than the machine that they built heretofore.

Q. By heretofore, how far back do you mean? A. Well, three or four years back, ten years, if you please.

Q. That is the machine you are building today cost \$4.00 or \$5.00 more than five years ago? A. Yes, sir; and ten years ago; going back that far, the mowing machine they are building will cost, I should judge, about \$3.00 more, and that is quite a good deal on mowing machines.

Q. Is that increase in cost due solely to the changes you have indicated have taken place? A. I would say yes, sir; principally to that to the changes that have been made on the machines.

Q. That is the increase in cost you have spoken of, you do not include the cost of material? A. No, sir; not at all.

Q. How about any of the machines? A. The same will be true of the Milwaukee binder, the Milwaukee binder will probably cost, I should say, \$3.00 more than the machine they used to build, the old Milwaukee Company.

Q. Is that true of each one of the machines that the International Harvester Company makes? A. No, sir; it is not.

Q. What ones is it not true? A. It is not true of the McCormick.

Q. It is not true of the Deering? A. I think it is not, not very much.

Q. Is it true of the Osborne? A. No, sir; only in a measure.

Q. Have there been any improvements on the mowers since 1903? A. Indeed there has, sir.

Q. On all lines of mowers or mowers is that confined to some? A. That is confined to the Deering, Champion and Osborne principally.

Q. You do not mean there has been no changes on the other? A. No, sir; not at all, sir.

Q. But the most changes have been the machines that you have indicated? A. Yes, sir.

Q. What is it that makes the machines more durable now than they were prior to 1903? A. One thing would be the quality of the material, another thing that is being done largely in the last few years is the case hardening of parts, case hardening is a peculiar process by which the outer surface of the metal is made very hard. That has been gone into for the last couple of years and that is giving very good results indeed. Although it is not a new thing, but never was practiced to any extent prior to the organization of the International Harvester Company, it was well known in the art, but it was a little expensive, and the old Companies did not like to go in on that account, I believe.

Q. What is the effect on the machine? A. To make it more durable, sir.

Q. Does it have that effect? A. Oh, yes; indeed.

Q. Do you know how many pieces there are to the knotter, the McCormick knotter? A. Why I do not believe I could give you the number; 50 or 60, I should judge.

Q. Is it a rather complicated or rather intricate piece of machinery? A. It is to people that are not familiar with it, when you get familiar with it it seems rather simple, although there are a great many parts and are delicate, and the work done on these have to be very accurate.

Q. Is the McCormick machine now, Mr. Kane, as built in the last six or seven years better than it was before 1903? A. Yes, sir; the binder that they have been building for the last two or three years is giving very much better satisfaction than the ones they built prior to that time, and that is due mostly to the fact that they have made a new binder attachment and a new knotter, and I believe they are doing very much better work on the new one than they ever did on the old one, and in that connection I would say some of the improvement is due to the case hardening and the finishing of the parts in better shape than it was ever done before.

Q. Are the fundamental principles upon which the construction of the binder rests open to the public or are they protected by patents? A. They have been open to the public for several years, sir.

Q. About how long? A. 12 or 14 years; the Appleby patents expired in 1896; they were the principal patents on grain binders since that time; anybody that wanted to build a grain binder could go in and do so, regardless of patents.

Q. Is it true that any one that wanted to do so, so far as the patents are concerned, could build a grain binder substantially the same as any of the binders made by the International Harvester Company? A. That is true, sir.

Q. Is there any analysis of the material that goes into the different parts of the machines made by the Company? A. They have got a department for the purpose of that work to study the qualities of the material and see if it is up to the specification.

Q. You have been through their office? A. Yes, sir; I am in charge of it; I do not pay very much attention to it.

Q. That is the Laboratory department? A. Yes, sir; and in connection with the works.

Q. Do you know whether there was any substantial laboratory department in any of the companies prior to 1903? A. I only know what we had at the Champion works, we had a laboratory for the same purpose.

Q. Was it as well equipped for service? A. The one we had there was as fully as good as the one we have there at the present time, but it was not as good as some I have seen at the other works that I have seen since the organization of the International Harvester Company, that is—

Q. That is, the later equipment of some of the works of the International Harvester Company today are superior to any that was in existence before? A. I believe they are, sir.

Q. How about the inspection now, Mr. Kane, what do you mean by the inspection of the machine? A. Looking over machines after they are built, and also examining the parts that go into the machines during the course of building.

Q. Are they actually tested some time? A. Oh, yes, sir; they are, sir. Of course, they are not tested the same as they would be in the field—the harvester machines, I am referring to them— You really cannot test the harvesting machinery in any other place except in the actual operation. In the building, of course, you can examine and see the parts are all right, but to make a real test you have to go out in the harvest field and make the test.

Q. How careful is the test of the parts since 1903 of the parts that go into the make-up of the binder? A. I don't know as I can just answer that.

Q. Is there a department set aside for that? A. Oh, yes; there is a department for that purpose, with a head to it.

Q. Do you know how many men are employed in it? A. I really do not. As a guess I should say that probably 200 or 300.

Q. Whose duty is it to solely inspect the machines to see they are in perfect working order before they go out? It is their duty? A. Yes, sir.

Q. Is what you have stated of the binder practically and substantially true of the other goods such as mowers? A. Yes, sir; it is, sir.

#### CROSS-EXAMINATION.

By Hon. James T. Blair:

Q. You are located at Chicago? A. Yes, sir.

Q. In the employ of what company? A. International Harvester Company, sir.

Q. Which International Harvester Company, the International Harvester Company of America or of New Jersey? A. The International Harvester Company of New Jersey.

Q. How long have you been in the employ of that Company? A. Since it was organized, sir.

Q. When was that? A. 1902; I think it was in the fall of 1902.

Q. You entered the service in the fall of 1902? A. Yes, sir.



Q. Where had you been located prior to that time? A. In Chicago.

Q. In the employ of what Company? A. In the employ of the Warder-Bushnell and Glessner Company.

Q. Is their principal plant at Chicago? A. Springfield, Ohio.

Q. Their manufactory is at Springfield, and was at Springfield? A. Yes, sir; at that time.

Q. Now, the department of the Warder-Bushnell and Glessner Company, of which you were employed, was separate from the manufacturing plant in the different department at Chicago? A. That is right, sir.

Q. How long has that been true prior to the organization of the International Harvester Company of New Jersey? A. It started, I think, in 1889, sir.

Q. Are you acquainted with Mr. Stewart, who testified on yesterday? A. Yes, sir; I am.

Q. How long have you known him? A. I would say about 25 years.

Q. During that time of your acquaintance he has been located and employed at what place? A. At the Deering works, sir.

Q. In what city? A. Chicago.

Q. Is he located now at the same works and employed there as formerly? A. No sir; he is located at the main office.

Q. Where are you located? A. Yes, sir; the same building.

Q. Now, when did Mr. Stewart, when was he transferred to the main office of which you speak? A. I really could not tell you sir, just the time.

Q. How long have you been working in connection with each other if you do so work? A. We do not at all.

Q. You are not employed in the same line of service? A. No, sir.

Q. Was there any connection prior to 1902 between the departments in which you were serving the Champion Company and the department in which you say Mr. Stewart was serving the Deering Company? A. Well, of course these companies were entirely separate prior to 1902.

Q. You just answer the question as I ask it, please. A. In the Champion Company there was a connection, sir, between these two departments; in fact, they were one and the same. As the patent department and experimental department, I had charge of both.

Q. In the Champion Company? A. Yes, sir.

Q. My question had reference to the connection of these departments in the Champion Company and the departments in the Deering Company, whether there was any working business connection between the two? A. Not that I know of, sir.

Q. Now, Mr. Kane, you are engaged in overseeing the designing of machines? A. Yes, sir.

Q. The examination in chief has been confined to the mower and binders; has any portion of your time or services been devoted to the

overseeing or designing of other implements than binders and mowers?  
A. Yes, sir.

Q. What other machines? A. The whole line, sir.

Q. The whole line of implements and harvesting machinery and the tools manufactured and put out by the International Harvester Company of New Jersey? A. Yes, sir.

Q. Now, that is true of your whole department, is it not? A. Yes, sir; the experimental department.

Q. Has the International Harvester Company of New Jersey more than one experimental department in operation? A. Why, it is one, sir; although they have one at each works; we control it from the main office.

Q. The main office is at Chicago? A. Yes, sir.

Q. Where is the main office of the International Harvester Company of America? A. It is also in Chicago, sir.

Q. With reference to the main office in which you are employed, where is it located? A. The same building.

Q. Keeps the same rooms to some extent? A. No, sir.

Q. What building is that? A. At the corner of Michigan avenue and Harrison street.

Q. The International Harvester Company of New Jersey occupies how many and what floors of that building? A. I really don't know, sir; possibly both companies occupy; I think about eight floors in the building.

Q. Well, what floors are occupied by the other companies, if you don't know about concerning the one I asked you? A. The experimental department and manufacturing department.

Q. Of the New Jersey Company? A. They occupy the 11th floor. The International Harvester Company of America, I think they have the 7th, 8th and 9th.

Q. And the remainder of the building is occupied how? A. By the collection department and law department, and just the connection I really don't know.

Q. What company is that? A. I don't know where they belong.

Q. You don't know what company that belongs to, the law department? A. Of what Company; I don't know, sir.

Q. You don't know whether the International Harvester Company of America or New Jersey? A. No, sir; I do not.

Q. You don't know where the line is drawn in that building, between the two organizations? A. No, sir; I do not.

Q. Now, you say that what Mr. Stewart referred to as a basic patents has expired on the harvester and mower machine? A. Yes, sir.

Q. And that any person who might desire might construct the machine in so far as the patents are concerned quite similar, if not almost identical, with the machines offered to the public by your company? A. Yes, sir; anybody can make the machines substantially as they are being made today, so far as the patents are concerned.

Q. So far as efficiency for at least a season or two the machine might be constructed that would be quite as efficient as the machines offered by your company, the difference would be in the durability and simplicity of the machine rather than in its efficiency, would it not? A.

No, sir; I would not limit it to that; I believe that machines can be made just as durable and just as efficient outside of that organization as they can be inside if they will adopt the same means, and those means I believe are open to the public.

Q. That is to say, the Johnston or Acme or the Adriance Platt people could construct a machine as far as any patent obstacles are concerned, practically or identically the equipment of the machine offered by your people? A. Yes, sir; they certainly could, and if they wanted to put more money into it they might make them better if they wanted to.

Q. Well, the International Harvester Company does not do that? A. Yes, sir; they are doing that right now.

Q. What do you mean by saying that if the independent companies are willing to put more money into it they might make a better machine than the International Harvester Company? A. I believe that is possible, sir; it is pretty hard to draw the line.

Q. You mean to say if you were permitted to construct a somewhat more expensive machine you could design a machine that would be more efficient and better than the machines offered by your company? A. In these later times I think the machines we have made we have pretty near reached the limit.

Q. Do you mean to say there is any difference in the quality and efficiency between many of the independent harvester company and that of the International Harvester Company of New Jersey? A. I would not think there is any difference, sir.

Q. Well then you mean to qualify your former statement, or rather restrict your former statement, that the spending of more money would produce a better machine, and state that the present machine offered by the International Harvester Company of New Jersey is the same of the ideal in the construction? A. I would not like to put it quite as strong as that, sir.

Q. They might end the desirability of your services? A. Yes, sir; I do not want to get out of a job right away; we will need a little more of it next season, right now we are very well satisfied with the condition the machines are in.

Q. You say that in the last ten years there have been no radical changes in the binder and mower construction? A. That is correct, sir.

Q. Whatever changes of the character were made in the machine were made prior to the year 1902? A. Yes, sir; along before that.

Q. Now, the department over which you preside directs its efforts towards the improvement of a machine as it now is rather than towards any basic or radical changes of the machine construction; is that true as to the quality of binders and mowers? A. That is true, sir.

Q. The invention or new design originating with that division of your department which has charge of labor at the Deering works, for example, is available for the Champion or Plano or other machines, is it not? A. In some cases; yes, sir.

Q. Well, where it is practicable, that is the rule, is it not? A. Yes, sir; where it is practicable and where the other machine is undergoing a change, that device will be considered in connection with that

change, and if it was a good thing and well adapted to that machine, it will be included in the improvements.

Q. What determines whether the machine will undergo the change? Is that determined by the discovery of plans that will improve the machine or on some other basis? A. On that basis and also the work that the machine does in the field in actual operation.

Q. You have general charge of the Company's inventive and designing business, have you not? A. I have, sir.

Q. You have charge of the general department of the Company's machines and tools? A. Yes, sir.

Q. You originate, and to an extent, at least, control the policy, direction and extent of that development, do you not? A. Yes, sir; to a large extent.

Q. The general policy then of the International Harvester Company of today is a single policy looking toward the development of one perfect machine, is it not? A. That is what we are aiming at, sir.

Q. There has been in the last six years some considerable advance in that operation, has there not? A. That is to say, that each of the six binders and each of the six mowers manufactured by the International Harvester Company of New Jersey has approached a common center or point to a considerable extent? A. That is true to a certain extent, while, of course, the machines are still very different from each other.

Q. But they are approaching identity? A. Yes, sir; they are to a certain extent.

Q. The purpose of this policy is to finally construct one binder and one mower that shall embrace the most perfect mechanism of all the machines now offered by your Company? A. No, sir; that is not the purpose.

Q. That is, there is no express purpose of that kind? A. Not that I know of.

Q. You have not been directly advised that is the policy of the Company? A. Not directly or indirectly; in fact, I think it would be looking at it from a business standpoint; it would be a foolish policy for them to pursue.

Q. In offering the several different machines, it enables the Company to make a contract, advertise to the consumers as well as the others, and to the public an appearance of competition, does it not? A. I should think it would work along that way, sir.

Q. Now, you said a moment ago, Mr. Kane, that the changes, that is to say, the improvements upon one class of machines or binders, for instance, were adopted and applied to the others as rapidly as it was found advisable; do you mean by the use of the word advisable, what do you mean by that? A. If the devices used on one machine were better than those used on the other when the other machines were being changed, that feature, say on the McCormick machine, was well adapted to the Plano, Deering or Champion, then the same is placed on the other machine.

Q. Then the purpose is solely the adaptability of that particular

appliance in connection with the other machine in order to improve its efficiency? A. Yes, sir; that would be the thing.

Q. Well, now during the course of the last seven years, you have been in your capacity as manager of the designing and inventing department of the International Harvester Company of New Jersey, the designer of particular parts of the several different machines which are adaptable to the use on the other machines, have you not? A. Yes, sir.

Q. And you have adapted and applied to the other machines all of these parts which are at present adaptable to the other machines? I mean other than those on that which they were formerly used? A. Well, that is true to a certain extent.

Q. To what extent is it not true? A. Well, there are many of the parts that are used on the McCormick machines that, although they are very good, could not be used very well on some of the other machines, they might be very good parts.

Q. That is covered by the word adaptability, I think, used in the question. You may eliminate such parts as that and confine your answer to the rest? A. Well, with that in mind, that is true.

Q. So far as that interchange of parts are concerned for all practical purposes, that is at an end for the present? A. No, sir; we expect to go right on with that year after year as opportunity offers.

Q. You mean to imply that—there are parts used whose adaptability you have not discovered or whose adaptability of parts you have not applied to the other machines yet? A. You can take that either way; we are putting out machines this season, that is for the season of 1910, with some new parts on them that we have made a test of them, and, so far as we know, they are and have proven very good. However, it will take a more satisfactory trial until we will be satisfied that it will, to be safe to adopt them generally on our machines.

Q. How many patents are now in force upon parts or all of the Deering binder? A. I don't know, sir.

Q. Would you make the same answer as to the other binders and mowers? A. The same answer to that; I notice there are quite a number of patents stenciled on the machine or binder, there probably would be a half a dozen or a dozen, but looking them over I know they are of very little importance; I know what the patents are.

Q. Now, Mr. Kane, if you don't know what patents are in force on the Deering binder, on what do you base your conclusion they are of very little importance? A. Because I have looked them over from time to time; I know in a general way.

Q. What patents are not in force? A. Yes, sir; I know they are not important.

Q. Well, is the knotter an important part of the binding machine? A. Indeed it is, sir.

Q. Are there any patents in force on the knotters of any of the binders offered to the public by the International Harvester Company on any parts of the knotter? A. Very few, I would say.

Q. Well, are there any? Oh, there may be on some; minor details, but the principal patents on knotters expired twelve or fifteen

years ago. In fact, the present Deering knotter has been used for—I would say twenty years or more.

Q. Well, you spoke of the particularly delicate character of the construction of the knotter, do you refer to the term minor details to some of these delicate parts; do you mean by minor details something that is small in use? A. No, sir.

Q. Or small in importance? A. No, sir; I do not mean that way; I mean small in importance.

Q. To make up a knotter, it takes all these parts to make up a knotter on your machine? A. Yes, sir.

Q. Some of them are patented? A. Yes, sir.

Q. The Milwaukee knotter is offered to the public, could not be used except with the infringement of the patent? A. Yes, sir; it could be used by anybody.

Q. So there are no patents in force on the Milwaukee knotter, or any part of it? A. That is right, sir. Just pardon me, the reason I make that statement regarding the Milwaukee is because the same knotter is used on the Champion, and on that account I am particularly familiar with that knotter.

Q. What about the McCormick, the Deering, the Plano and the Osborne? A. I believe the Deering could be used, sir.

Q. And the rest? A. The Plano I am not so sure.

Q. And the same would be true of the Osborne? A. I would not state positively.

Q. What do you mean by the answer that some parts, a few of the parts of the knotter were under patents now? A. I believe that some of the parts on the new McCormick knotter, sir, and possibly on the Osborne and the Plano; I would not like to start in to manufacture these without investigating the question of patents first. But on the Deering, the Milwaukee and the old McCormick—

Q. What is the life of a patent? A. Seventeen years, sir.

Q. The Deering, the McCormick and the Milwaukee knotter are today as they were 25 years ago, is that true? A. No, sir; you have to accept the New McCormick not with the Old McCormick.

Q. When did the last patent on the knotter on the Deering binder expire? A. I don't know sir.

Q. Before your connection with the International Harvester Company of New Jersey? A. I don't know.

Q. You have no connection with that particular branch of the Deering machine business? A. No, sir; I am not responsible for it.

Q. It is not within the purview of your services? A. No, sir; it is not.

Q. Well, what is the real difference between the services that you give your company and the duties of Mr. Stewart who was on the stand yesterday? A. He looks after the patents more for the company.

Q. The legal business of the matter? A. Yes, sir.

Q. Solely? A. Yes, sir; that is his principal business.

Q. And you? A. I look after the experiments as my principal duties.

Q. In 1902 how many men were employed in the designing or inventive department of the Champion Company, the Warder-Bushnell-Glessner people? A. Oh, I would judge there were about twelve or fifteen.

Q. Well, do you know? A. That is my recollection of it, sir.

Q. Did you know then? A. Oh, yes; I knew then.

Q. How many are employed by the Deering people? A. I don't know, sir.

Q. The Plano people? A. I don't know.

Q. Or any of the other companies? A. No, sir.

Q. Then on what do you base your conclusion stated in your examination in chief that there were about as many men employed now as then in this particular department of the binder business? A. Well, I knew in a general way at the time just about the number there was, especially when we got together just at the time of the formation.

Q. You had no actual personal knowledge? A. No, sir; prior to that I could not tell you how many there were.

Q. Your statement was an estimate or more of a guess? A. I had no way of knowing in a general way without being directly interested in it.

Q. Now you say the number of men now employed in the designing and inventive department of your company is equivalent to all the six companies prior to 1902? A. Yes, sir. I would judge it was, sir.

Q. To the best of your knowledge? A. Yes, sir.

Q. Now these men employed by the International Harvester Company outfit devoted their attentions to the invention and designing of all kinds of farm implements manufactured by the International Harvester Company of New Jersey? A. They do, sir.

Q. How many devote their attention exclusively to the designing and the invention of plans and improvements or changes in binders and mowers? A. Well, they are not divided up in that manner, a man may be working on binders and mowers for a week or a month and then be transferred to something else and do some work on some other machine.

Q. You have charge of that transfer of these employees from one branch to the other? A. No, sir; I have general charge, but that transfer would be made —

Q. You don't know how many men were working on this particular class of machines and that particular class? A. Our records will show, I don't know, I have seen the records, but without the records I could not tell you, but although we have the records of them showing the class of work the men have been employed on at the end of the month, we have a report from the superintendent showing the class of work.

Q. In what lines of implements, tools and machinery manufactured by the International Harvester Company of New Jersey and offered by the International Harvester Company of America has occurred the greater number of changes and improvements in the last five years? A. I believe that on gasoline engines and tractors the



gasoline engine mentioned—and the power of the engine for propelling, these are called tractors.

Q. What extent next in the way of improvements were made?

A. Well, it would be a guess on my part, sir.

Q. It is pretty well divided in the other lines? A. Yes, sir; pretty well divided among the other lines.

Q. Do you know what per cent of patents and new devices originated by your department related to the binders and mowers exclusively? A. No, sir; I would not know anything about that.

Q. You cannot make an estimate? A. No, sir; I would not do it, it would be a mere guess.

Q. Prior to 1902, the efforts of the several forces employed by the different companies which now make up the International Harvester Company of New Jersey with the exception possibly of the Osborne Company, employed in the kind of service at the head of which you now are were directed towards the improvements of binders and mowers exclusively, were they not? A. No, sir; there were some other lines along with the binders and mowers.

Q. That is to say there were rakes? A. Yes, sir; hay rakes.

Q. What else? A. Hay stackers, sweep rakes, things of that kind, but principally they were, their time was occupied on binders and mowers, that was the principal thing.

Q. And outside of that confined to other harvesting machinery? A. Yes, sir.

Q. I believe you stated the laboratory of the Champion works prior to 1902, was as good as it is now? A. Yes, sir; fully as good.

Q. That is true as far as you know of the other companies, or, is it true? A. I don't know so much about that, it may be more than it was formerly, or it might be the reverse.

Q. Now that is true of the inspection department, is it not, or, is it? A. Yes, sir; in a measure.

Q. In other words, it was the effort of these companies then as it is the effort of your company now to suffer no defective material to go into the machine? A. Yes, sir.

Q. That is the purpose today? A. Yes, sir; and the purpose and the object of the inspection.

Q. Now you say the cost of your department is something like \$250,000.00 or \$300,000.00 annually? A. Yes, sir.

Q. Well, the expense of the maintenance of that department as it is constituted today would be considerably greater than the maintenance of a like department in 1902, would it not, in the salaries that have been raised? A. Yes, sir.

Q. Has there not been a general advance of salaries in your department in accord in keeping pace with the general advance in everything? A. There is, sir.

Q. You don't know what the total maintenance of the several different departments prior to 1902 was, do you? A. No, sir; I do not.

Q. Now you say you get all the kicks, I believe you used that language? A. Yes, sir; that is what we call it.

Q. Now you have reference to some objection made of some particular device or attachment on some particular machine, does it include that? A. It includes everything.

Q. Well, now your department now is made the general complaint department of the company, both as to particular machines as well as particular devices and patents in the machines? A. Yes, sir.

Q. Now how do these complaints reach you, Mr. Kane? A. Various ways, sir. I very seldom meet a general agent that he does not start right in to do business with me on something.

Q. Mr. Funston, for instance, makes trouble for you? A. Yes, sir. He would be very good.

Q. Mr. Yancey becomes very obstreperous? A. Yes, sir; I had that experience with all of them. Mr. Dougherty of Springfield.

Q. Mr. Dougherty of Springfield writes you and makes some complaints to you? A. No, sir; he writes somebody else, and it gets to me.

Q. Mr. Funston has interviewed you personally? A. Yes, sir; that is the topic when we meet.

Q. He gets right after you? A. Yes, sir.

Q. Well, what per cent. of these complaints come to you through the business of the International Harvester Company of America? A. The principal part of them, I think, comes from that office to us.

Q. What per cent. have you, if you remember, that reaches you through the business of the International Harvester Company of New Jersey? A. Well, it would be pretty hard to state.

Q. You cannot approximate the per cent.? A. No, sir; I cannot tell very well.

Q. It is not as much as reaches you through the other company? A. When they come to my office I cannot tell you where they come from.

Q. You know there are some that come from the International Harvester Company of America? A. Yes, sir.

Q. And some from the International Harvester Company of New Jersey? A. Yes, sir; I do.

Q. Now, figuring the cost of your department at \$250,000 to \$300,000 per annum, what were the net results last year with respect to the improvement of binders and mowers, what were the changes made? A. Our machines gave better general satisfaction.

Q. I have reference to the particular changes, Mr. Kane, on the six binders and six mowers. A. This last season we introduced a new Champion binder, all new; I mean it was different from the old one in that it was a great invention on anything in that sense; it was a new machine, looking at it from a manufacturing standpoint.

Q. Will you go somewhat into details of the changes? A. On that machine the knotter was changed, the Plano knotter was adopted on the Champion machine; that is now along the line that we have been talking about, taking the good particular parts of one machine and putting them on the other one, a general change was introduced.

Q. Then, according to your statement a few minutes ago, the Champion knotter which was not protected by patents last year, will

be to some extent protected by patents next year. A. No, sir; not at all.

Q. Did you not state that the Plano knotter, say some parts at least, were protected by patents? A. Yes, sir; to that extent; whatever patents protected the Plano, will also protect the knotter on the Champion machine. The weight of the machine was increased from about 1,300 pounds to 1,500 pounds; that was really the most important change.

Q. Well, now, to what extent or to what per cent., if you can fix it on a basis of that kind, did these changes increase the efficiency of the Champion machine? A. It would be very difficult to answer that question in that way, but from what I know of both machines, and I am quite familiar with them, I would consider the new one worth \$25.00 more than the old one, if I was going to buy them myself, and could not get them at the same price.

Q. That is based on their relative efficiency? A. Yes, sir.

Q. Now, the fact is that since 1899, well, since 1902, the cost of the Champion machine has advanced annually \$5.00, the cost of construction, was not that your statement in examination in chief?

A. No, sir; the present machine, the one we built for 1909 and also for 1910 over and above those that were built prior to that back to 1902, and before that.

Q. Now, wherein lays the difference in efficiency between the 1910 model, if that is the proper term to apply? A. Yes, sir; that would be alright.

Q. The Champion machine, the 1909 machine, as to the efficiency?

A. Well, the 1909 and 1910 will be practically the same machine.

Q. Well, take the 1908 machine and make the comparison? A. The principal difference will be in the weight giving added strength to the parts, and also the matter of better efficiency and finish and case hardening; a great many of the parts on the old machines were finished very roughly; in other words, castings that had holes in them would be bored, and not finished as formerly that was considered practically good enough; the reason for leaving them that way was to save expense. On this present machine there is practically none of that kind of work done on it; the holes are all bored and fit accurately, and the additional weight on the machine is the real efficiency and the efficiency has increased.

Q. In other words, you really mean when you use the word efficiency, durability and appearance to some extent? A. Yes, sir; appearance, to some extent. You could not tell much difference in the appearance of the machine, the appearance of the machine in doing a good job of painting.

Q. And the smoother parts were introduced largely to meet the increased difficulty of drawing it, the machine, by reason of its increased weight, is that not true? A. No, sir.

Q. That consideration did not appeal to you? A. No, sir; that is not the proper connection to make.

Q. It does, though, does it not? A. Yes, sir; it would have that effect, but the object in doing that was to increase the durability

of the machine and the additional weight was to give it more strength which would increase its durability and make it a better working machine.

Q. And you think that the machine is worth 25 per cent. more now? A. \$25.00; which is pretty near the same.

Q. Well, in round numbers? A. Yes, sir.

Q. Will it cut that much more grain? A. Yes, sir; it will last that much longer.

Q. It will last that much longer? A. Yes, sir; and, of course, the longer it lasts the more grain it will cut, although in a given time as long as the machine would last the quantity of grain it will cut is due to the width and size, and as long as both are running they will cut the same amount.

Q. In other words, the tendency in the changes in the machine from 1908 up to 1909 and 1910 has been to increase the cost of the machine and to reduce the sale of repairs? A. That is true, sir; and looking at it from a business standpoint, it was a very unbusinesslike way of doing things.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. In regard to patents on the binders, did I understand you to say that substitution for these parts, these patented parts, that they would be practically equally as efficient, and as could be made by anyone? A. In the main, that is true, sir.

Q. So that the knotter, as a complete working part, is available to anyone who wants to make one? A. Oh, yes, sir; the idea of a piece of mechanism for tying a knot in a cord is very old, indeed, and can be made by anybody now. The little improvements we make are changes; these two words are not synonymous, sometimes they are and sometimes they are not. These parts are sometimes patented, you can get a patent of course on almost anything.

Q. And substitutions for these minor parts, that would be practically as good and as efficient as the new ones, are open to anyone? A. Yes, sir; if you want to use that particular knotter, you would not need to do that, because there are so very many of all kinds of knotters on which the patents have expired.

Q. Is there any restriction of any kind or any kind of restraint to restrain you from producing the best practical machines of the makes that is possible? A. Not under our organization.

Q. You mean, since when? A. I would go back, say two or three years; I would not go back with that statement to the organization of the International Harvester Company, but I would go back two or three years.

Q. But in the last two or three years, that is true? A. My orders have been from the start to go ahead and produce the best machines that we could get out in our department.

Q. Which are the Champion, the Osborne, the McCormick, the Deering and Plano, are they all separate and distinct machines? A. Yes, sir; I would say they were separate and distinct machines.

Q. That is, your business is to improve each one of these separate machines until each one of its kind is near perfect as possible?

A. That is the program. And in doing that, we sometimes introduce some of the parts of one machine into another, and these parts, in some cases, are identical—in some similar—but in some cases identical.

Q. I presume there are many parts of these machines that are good parts, but which never could be used in the other machines?

A. That is true, sir.

Q. So, the machines are separate and distinct, each one being improved towards perfection in their own line? A. That is true; of course, the machine, the grain binder, there is a certain similarity in manner of those made by the International Harvester Company, not only of those made by the International Harvester Company, but the other companies; you take the Johnston, take the machine made in Canada called the Massey Harris, if you get all the machines in a row, and take the names off, there are a good many people that could not tell you which were which.

Q. Gasoline engines and tractors are practically a new line? A. They are, sir.

#### RE-CROSS-EXAMINATION.

By Hon. James T. Blair:

Q. The number of patents taken out last year as the result of the labor of your department were how many? A. I don't know.

Q. You have no idea? A. No, sir.

Q. Could you not approximate it? A. It would be a wild guess.

Q. You know there were some? A. Yes, sir; I have seen some.

Q. Do you know whether any were taken out on the binder, any material improvements? A. I would say there had been some.

Q. There have been some there every year since you have been connected with the company? A. Yes, sir; we tried to have something to put on the machine every year.

Q. Is there any time of the year that the parties in your department devote to the improvement of plows? A. No, sir.

(Witness excused.)

AVA SMITH, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. State your name? A. Ava Smith.

Q. You live at Whitesville, Missouri? A. Yes, sir.

Q. How far is that? A. Somewhere near 250 miles.

Q. From here? A. Yes, sir.

Q. How long have you been connected with handling farm tools and machinery? A. Twelve years.

Q. What is your total business on the average in farm implements, tools and machinery? A. Twenty thousand dollars a year.

Q. What is your total business? A. Forty thousand dollars to \$50,000.

Q. What proportion of your farm and agricultural tools and implements business is represented by the International Harvester Company of America line? A. Two thousand five hundred dollars to \$3,000.00 per year.

Q. What proportion is represented by the business in binders and mowers? A. One thousand five hundred dollars, I judge on the average.

Q. What harvester do you deal in? A. McCormick.

Q. What others have you dealt in? A. The Plano and Milwaukee.

Q. What mowers? A. The Standard; we have had the Milwaukee mower, a few of those.

Q. You handled them both at the same time? A. Yes, sir.

Q. What years was that? A. We got the Milwaukee mower in 1907 and 1908.

Q. And the Standard at the same time? A. Had the Standard since 1906.

Q. Was there any objection coming from the International Harvester Company of America in you handling both lines? A. No, sir.

Q. Between 1903 and the present time what would you say was the general course of prices in agricultural implements, tools and machinery outside of the Harvester line? A. You mean the prices, there has been an upward tendency.

Q. Of what per cent. in advance? A. Well, it would make the average amount to 20 per cent.

Q. Outside of harvesters? A. Yes, sir.

Q. About 20 per cent.? A. Yes, sir.

Q. What has been the increase in price during these years in the price of wagons? A. Well, different wagons have made different advances; I would judge it has been from 15 to 20 per cent., anyway.

Q. Do you handle the Weber wagon? A. We do not now.

Q. Have you ever handled it? A. Yes, sir.

Q. What year? A. I could not name the year; it was the year before the International Harvester Company.

Q. A good many years ago? A. Yes, sir.

Q. What has been the course in the prices in regard to the repairs on Harvester lines of machines between 1903 and 1908? and especially those repairs that are more often used and called for by the farmer? I will put it this way: has the price of repairs that are most often called for by the farmer in the harvester line of goods decreased since 1903? A. Yes, sir; it has since 1903.

Q. Cannot you tell us how much, how much in per cent.? A. No, sir; not in per cent.

Q. But take them in that line, there has been a decrease? A. Yes, sir.

Q. How has it been with regard to quality and durability? A. We have fewer calls on repairs now than we had at that time, what we call free repairs.

Q. That is, the repairs really wear longer and last longer? A. Yes, sir.

Q. Does that St. Joe agency effect the farmers in your territory?

A. It is a benefit to the farmer in that territory in getting the goods prompt when they want them.

Q. How was it before? A. It was a delay in getting the repairs before it was established.

Q. You handle your repairs on the commission agency basis?

A. Yes, sir; principally so.

Q. Does that have any effect on the amount of repairs you carry?

A. We carry a great deal larger stock than if we had to purchase them outright.

Q. Can you give the Commissioner any idea as to the per cent. of the repairs you would carry as compared with those you do carry if you had to buy them? A. If we had to buy them we would not carry over 25 per cent. of what we do carry.

Q. Is the Acme sold in your neighborhood? A. Not in our immediate neighborhood.

Q. How far? A. I could not name the nearest agency.

Q. Were you ever asked to handle the Acme? A. I have had their agents to try to get me to handle it.

Q. Why did you not handle it? A. I have no calls for it; I scarcely ever hear the name mentioned by the farmer.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. In fact, the Acme machine is in a different class to the machines manufactured by the International Harvester Company, is it not? A. I don't know as I understand how you mean.

Q. It is an inferior machine? A. I never heard it said to be; no, sir.

Q. You have no demand for that machine in your community? A. No, sir.

Q. You could not successfully compete with the International Harvester Company with the Acme machine, could you? A. I could not say as to that.

Q. To what line of farm implements did you refer in saying there has been an increase of 15 to 20 per cent. in recent years? A. Take in cultivators, most all cultivators and plows.

Q. What particular kinds? A. Cultivators.

Q. You handle cultivators? A. Yes, sir.

Q. Do you handle International Harvester cultivators? A. No, sir.

Q. Well, what other implements did you refer to? A. The general line of farm implements.

Q. That is too general, name some of them. A. Cultivators, riding plows, riding listers, corn planters, stalk cutters.

Q. What else? A. Disc harrows.

Q. What else? A. Farm wagons.



Q. What else? A. That includes the general line of farm implements.

Q. You handle all these lines? A. Yes, sir.

Q. For how long? A. Twelve years.

Q. Well, what do you sell the disc harrow for now? A. What kind of a disc harrow?

Q. The kind you sell at \$30.00 now; take the same general character of disc harrows that you sell at \$30.00 now, what did you sell them for a year ago? A. The price a year ago and this year were the same with us.

Q. How about in 1907? A. I think the harrows were sold in 1907 and the harrow we sell now at \$30.00 were sold at that time at \$28.50.

Q. How about in 1906? A. We sold them at that time for \$27.50; that is my recollection.

Q. Are you guessing now or fixing this upon your knowledge? A. I state it to the best of my recollection, that was the price at that time.

Q. How about in 1905? A. Well, the price was along about the same as in 1906.

Q. In 1904? A. I do not remember that far back, just what the price was exactly on the disc harrow.

Q. In 1903? A. In 1904, the first year we handled disc harrows.

Q. During what period of time do you mean to say there had been this general increase at 15 to 20 per cent.? A. From 1900 down to the present time.

Q. Nineteen hundred to the present time? A. Yes, sir.

Q. Has the general course of prices on these other implements been the same as the prices you have indicated on the harrows? A. Yes, sir; they have been about the same.

Q. About the same increase? A. Yes, sir.

Q. There have been a great many improvements placed on these various farm implements during that same period of time, have there not? A. There has been quite a few; yes, sir.

Q. In fact, the general quality of all of these implements have been considerably better during that period of time? A. They have been better; yes, sir.

Q. Better material has been put into these implements and other general improvements have been made on them? A. Yes, sir.

Q. Do you know what part of the increase in the price is due to the superior quality and other improvements placed on those other farm implements? A. No, sir; I do not.

Q. So far as your personal knowledge goes, the entire increase may have been occasioned by superior quality of the material put into these implements and by new and additional improvements that have been made? A. So far as my knowledge goes, it could, sir.

Q. There are a great many farm implements that you handle that you buy from the International Harvester Company? A. Yes, sir.

Q. There are also a great number of farm implements manufactured by the International Harvester Company that you do not

handle, the general line of these? Do you know what particular lines the International Harvester Company manufactures? A. I don't know whether I know all the lines they manufacture; I know quite a number of them.

Q. Do you carry the line corresponding to each line manufactured by the International Harvester Company? A. No, sir; I do not.

Q. Some things they manufacture you do not handle that particular line at all? A. Yes, sir.

Q. What binders were sold in your community in 1902? A. The McCormick.

Q. What else? A. The Champion.

Q. And what else? A. And the Deering.

Q. What else? A. I am not positive, I will not make a positive statement, I think the Plano was.

Q. Any others? A. That is all I remember of.

Q. What mowers were handled in your community in 1902? A. The same mowers as the binders.

Q. What binders are handled in your community now? A. The Deering, the McCormick, the Milwaukee and the Champion.

Q. That all? A. And I think there is an agency for the Plano.

Q. Is that all, Mr. Smith? A. That is all I know of.

Q. What mowers? A. The same mowers.

Q. And any others? A. The Standard.

Q. Who handled the Standard? A. The Standard mower is handled by a firm that was formerly D—— and McFarland of Banard. They have sold out.

Q. Is that in your town? A. No, sir; not in our town.

Q. How far is it from you? A. Eight miles.

Q. I thought you said in the community there? I believe I asked you in the community, if you came in competition in your territory with the Standard mower? A. We handle the Standard mower ourselves.

Q. At the present time? A. Yes, sir.

Q. And what other mower do you handle? A. The McCormick.

Q. Any other? A. No, sir; nothing, only theirs; we have one or two of the different mowers of the International Harvester Company where we had an order for it, we have ordered one or two.

Q. Take in your community in the territory where you sell machines, what part of the mower business is done by the International Harvester Company of America with its other makes? A. Well, our sales this year would be sixty, rather seventy-five per cent.; that is, of International Harvester Company mowers; that is as far as I could speak.

Q. Is anybody else in your community handling other mowers of the International Harvester Company? A. Yes, sir.

Q. Well, now, you have in a general way knowledge of the number of mowers sold in your territory, have you not? A. No, sir; I do not, further than what we sell ourselves.

Q. Well, you know your competitors that are handling other makes of the International Harvester Company mowers have sold a

number of mowers? A. I know they sell the mower and quite a number, but as to the amount—

Q. Are you not safe in saying that the mowers represented by the International Harvester Company of America do at least 90 to 95 per cent. of the mower business in your general territory now? A. No, sir; I could not say that in our general territory there is a number, there is a part of our territory that the Standard is sold in, but not enough to make that statement, but I do not think hardly that much.

Q. Would it be 80 per cent.? A. I judge from seventy-five to eighty-five per cent.

Q. And the binder business? A. As far as I know; yes, sir.  
(Witness excused.)

W. P. YANCEY, of lawful age, being duly sworn, upon his oath testifies as follows on behalf of the respondent:

#### DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. Your name is W. P. Yancey? A. Yes, sir.

Q. You were on the stand at a former hearing last June? A. Yes, sir.

Q. Your home is in Kansas City? A. Yes, sir.

Q. It is 158 miles from here? A. Yes, sir.

Q. You are the general agent at Kansas City? A. Yes, sir.

Q. I want to ask you how many mowers in the territory that you handle—I mean how many binders in the territory that you handle of the Osborne, Plano, Champion, McCormick, Deering and Milwaukee brands are in use now? A. I should judge to the best of my knowledge about 6,000 in that part of my territory lying in Missouri.

Q. How many mowers of the same brand? A. I should judge 14,000 or 15,000.

Q. From your knowledge of the binder and mower business in the State what number of binders would you say of these brands were in actual use in the State? A. Well, that is only an estimate, because I handle one less than one-sixth of the State, but I should, judging the balance of the territory by that which I control, I should say about 30,000.

Q. Binders? A. Yes, sir.

Q. About how many mowers? A. Probably 70,000 to 75,000 mowers.

Q. What per cent. of the business in binders in your territory is done by the International Harvester Company of America in Missouri? A. For any particular year?

Q. Well, on an average for the last four or five years. A. Probably 50 per cent.

Q. And what per cent. in mowers? A. About 60 per cent.

Q. And what per cent. in cream separators? A. Very small; I should judge, I should not think over five to ten per cent.

Q. What per cent. of the wagon trade? A. Probably 15 per cent.

Q. What per cent. of the shellers? A. Practically none.

Q. Of the machines which the International Harvester Company of America handle, what per cent. of the total business done in your territory along these lines does the International Harvester Company of America do? What proportion of the entire business in your territory in the goods which the International Harvester Company of America handle is done by the International Harvester Company of America? A. I should judge about 25 per cent.

Q. What per cent. of the entire business of the International Harvester Company of America is represented by the business in binders? A. About 18 to 20 per cent.

Q. What proportion of its entire business is represented by its entire business in mowers? A. Sixteen to eighteen per cent.

Q. Of the entire business in agricultural business, tools and machinery in your territory, what proportion is done by the International Harvester Company of America, including the things in which they deal in the total line of business as well as the things in which the America Company do not deal? A. It would be impossible to get anything like a correct statement of that.

Q. Can you give us an intelligent estimate from your experience? I would like for you to do it; I do not want you to give us a guess. A. I should say 15 to 20 per cent.

Q. Mr. Yancey, what is the amount of money that is expended in Kansas City, Missouri, annually, by the International Harvester Company of America for the salaries and upkeep of the Kansas City agency over which you have charge? A. The expenses of the Kansas City general agency are about \$90,000 per year.

Q. That has been the average for how many years? A. Well, it is increasing.

Hon. Theo. Brace, Commissioner:

Q. How many. A. About \$90,000.00; it has been gradually increasing; our expenses are growing.

Q. Did the Osborne Company or McCormick Company or Plano Company or Champion or Milwaukee ever manufacture anything in Missouri? A. Not to my knowledge.

Q. After September, 1902, or after the year 1902, did the McCormick or Deering or Plano or Champion ever do any business in Missouri in the sale of their implements? A. No, sir.

Q. When did the Osborne cease to do business in Missouri? A. Late in the year 1904.

Q. Mr. Yancey, what proportion of the repairs that are carried in Missouri are carried over from year to year? A. Sixty to sixty-five per cent.

Q. And what proportion of machines that are carried by the agencies and dealers in Missouri are carried over each year? A. Including those carried at the general agencies, of course.

Q. Yes, sir. A. Twenty-five to 30 per cent.

Q. These repairs in these agencies are sent on commission? A. Yes, sir.

Q. You say 25 per cent? A. Yes, sir; sixty to sixty-five per cent. of the repairs and 25 per cent. of the repairs.

Q. Are carried over each year? A. Yes, sir; carried from one season to the other.

Q. What has been the course of prices in repairs between 1903 and now with a special reference to those repairs that are particularly called for most often, called for by the farmer? A. The prices have been reduced from year to year, and the general tendency is downward.

Q. Take repairs, such as the knotter's complete and the knotter hooks and discs and needles, are these often called for? A. Yes, sir; quite often; that is, especially parts of the knotter.

Q. What has been the course of prices of these? A. My judgment is these prices have been lowered in the last five or six years.

Q. Are these repair parts made or dealt in by the general supply houses? A. I think not.

Q. Do you know, Mr. Yancey, whether or not prior to 1903, the McCormick Company fixed the selling price at which the machine should be sold to the farmer? A. It was my understanding that they did; that they had a list price from which they allowed the agent a discount, and that list price was the price at which the agent was to sell to the farmer.

Q. What was done with the Plano, Osborne and Milwaukee? A. I can only speak more particularly with reference to the Deering with which company I was connected; we made a net price to the agent, but did not name the price to the farmer.

Q. I hand you a copy of the agency contract for the Deering for 1900, and I will ask you if you identify that as a copy of the contract used by the Deering Company prior to 1903? A. Yes, sir; that is the commission agency contract, the contract used by the Deering Company for several years previous to that time and after that time up to and including 1902.

Hon. Selden P. Spencer, counsel for respondent:

If your honor please, we desire at this time on behalf of the respondent in the above entitled cause to offer in evidence the Deering, Harvester Company Commission Agency contract for the year 1900 to be used as a part of Mr. Yancey's evidence, and we at this time offer same, and will ask that the reporter mark the same exhibit No. —, and that it now be inserted in the record at this place and considered introduced in evidence.

Hon. Theo. Brace, Commissioner:

Hand the same to the reporter and let him mark it exhibit No. —.

The contract will be considered offered in evidence; said contract as offered on behalf of respondent and marked exhibit No. — here appears in evidence in words and figures as follows, to wit:

## COMMISSION AGENCY MACHINE CONTRACT.

Florissant, Mo., Jan. 8th, 1900.

MEMORANDUM OF AN AGREEMENT, Between Deering Harvester Company, a Copartnership of Chicago, Illinois, and Ben Goldbeck of Florissant, County of St. Louis, and State of Missouri.

I. Said Deering Harvester Company appoints said Ben Goldbeck agent hereunder and for receiving, keeping and selling in its behalf its harvesters, binders, reapers, mowers, hay rakes, twine, extra parts, trucks, bundle carriers, flax carriers and other attachments, on commission, for the following territory only: Florissant and vicinity, for the entire season of 1900.

II. Said Agent agrees to perform all the duties of such agency with prompt business diligence and due care and skill, and in particular also agrees:

1. To sell only upon the terms and at the prices prescribed by Deering Harvester Company, solely to good and responsible parties, using no warranty other than Deering Harvester Company's printed warranty for 1900, to deliver, set up, and fairly start every machine sold, and to instruct the purchaser how to adjust it to work in different conditions to grain or grass.

2. To effect a complete settlement with each purchaser at the time of delivery, and remit all cash proceeds promptly to Deering Harvester Company, and take all notes representing the purchase price of time sales, payable to the order of Deering Harvester Machine Company, using for that purpose the note blanks furnished by said company.

3. To guarantee the payment of such notes in the form now used by the Deering Harvester Company in such case. It is intended that notes taken from purchasers shall be such as shall be good without further security at any local bank in the vicinity, and if any note or notes be turned over as being of that character, and Deering Harvester Company, shall within six months discover a mistake in so rating the same, said agent shall make the same good.

4. To render to Deering Harvester Company, at the close of the selling season, or whenever requested by it, a complete statement of sales, and also to render to it on request, a full statement of account, upon blanks to be furnished by it for that purpose, and with every note or set of notes delivered to said company for acceptance on account of sales made under this contract to furnish therewith for the use and benefit of said company, correct information concerning the note makers credit and responsibility.

5. To hold all goods shipped or received, until sold and delivered and the entire proceeds of all sales, as the sole property of said Deering Harvester Company, and as a special deposit for it until it shall be fully settled with.

6. Not to sell or be interested in the sale of any similar goods of or for any other house or concern, and to pay as liquidated dam-

ages the sum of \$20.00 for each machine sold in event of sales being made in violation hereof.

7. To pay all costs and expenses of a canvasser or expert, if any, while working for or with said agent, should any be provided by Deering Harvester Company.

8. To insure from loss or damage by fire, in a reliable company, by policy in name of Deering Harvester Company, at expense of said agent, all of said company's goods on hand at said agency at any time, for at least three-fourths of the net price while in his or their custody.

9. To safely house or store and keep free of taxes or other charges to said Deering Harvester Company all goods on hand at any time excepting trucks, bundle carriers, flax carriers and machines which have been set up and used as samples, and remain unsold after harvest, which in all cases, shall be paid for by said Agent, at time of settlement; and pay all damages to such property caused by neglect to properly store and care for same, and in no case to take parts from machines for sale as repairs.

10. To collect the rateable freights on such machines and property as may be re-shipped by him, such collection to be of the Carrier or Transportation Co. as back charges at the time of reshipment, or of other parties if delivery be made thereto, and said agent shall make no charges against Deering Harvester Company therefor or in this behalf.

11. That said Deering Harvester Company, not regarding any of the notes as satisfactory or good, may at its option, take and hold the same as collateral to the balance due from said Agent.

12. That this agency may at any time be terminated by said Deering Harvester Company, without liability for damages and it may at once take possession of the goods or property unsold and of everything in the hands of said agent, in any way relating to the business, and in no case is said Deering Harvester Company to be held liable for any trespass committed by one agent upon the right of another, that the agent must protect his territory against trespass the same as any other property.

13. To order all repairs that may be needed for Deering machines from Deering Harvester Company, and provide suitable storage for the same, and said agent agrees not to purchase, nor keep in stock, nor offer for sale, nor be concerned in the sale of knives, sickles, sections or other parts of machines manufactured and furnished for Deering machines by any party other than Deering Harvester Company.

14. That said agent shall receive at his cost for carriage all printed matter Deering Harvester Company may supply him with, and diligently distribute same, and also advertise during the four months preceding harvest in at least one newspaper in each county of the territory occupied by him.

III. To supply the agency, said Deering Harvester Company will use its best efforts to complete and ship all machines and goods aforesaid ordered of it so long as its stock shall last, but shall not be liable



to said agent in case the demand shall exceed the supply, or in case of inability from fire or any other unavoidable cause to supply the demand, and the said Deering Harvester Company reserves to itself the right to sell to any parties in the above territory who may buy of it or its general agent direct. Said Deering Harvester Company shall allow said agent, in full compensation or consideration for all his undertakings, and said agent hereby agrees to accept the same, the excess or difference between the net price, specified herein, and the price obtained from the purchaser, the same to be paid pro rata in cash and in notes as the same represents the respective sales.

IV. Said agent agrees to receive, under the terms and conditions herein specified, all goods shipped after January 1st, 1900, whether ordered or not, and now order of Deering Harvester Company to be delivered f. o. b. at its factory between January 1st and August 1st, 1900, the following mentioned goods and others subsequently ordered or received, which, with all commission goods on hand from previous years, are subject to the provisions and conditions of this contract, and all of the above are to be settled for at the net prices below named, or such other net prices as said Deering Harvester Company subsequently makes in writing to said agent.

Order.		With or without.		
Machines on hand.	Machines to be shipped.		Net price each, for cash.	Net price each, for cash.
	Deering Ideal Binder, 5 ft.....		\$105.00	\$110.00
10	Deering Ideal Binder, 6 ft.....		105.00	110.00
	Deering Ideal Binder, 7 ft.....		107.50	112.50
	Deering Corn Binder.....		107.50	112.50
10	Bundle Carrier for Ideal B.....		6.00	
	Bundle Carrier for D. C. B.....		6.00	
	Flax and Clover Carrier for I. B....		5.00	
6	Deering Ideal Mower, 4½ ft.....		36.00	38.00
	Deering Ideal Mower, 5 ft.....		37.00	39.00
	Giant, 5 ft.....		38.00	40.00
	Deering Ideal Giant Mower, 6 ft....		39.00	41.00
	Deering Ideal Mower, 7 ft.....		40.00	42.00
	Deering Ideal One-horse Mower, 3½ ft.....		33.00	35.00
	Deering Ideal One-horse Mower, 4 ft.....		35.00	37.00
	Deering Ideal Reaper .....		55.00	58.00

Deering Harvester Company will at settlement waive agent's guaranty on notes properly rated as good and collectible without further security.

Sales of all extras shall be for cash only, on which a commission of 25 per cent. shall be allowed to said agent, (except Net Cash Extras, for all of which said agent shall account in full, in cash, at time of settlement). Said agent agrees to furnish Deering Harvester Company with the donee's receipt for "gratis" Extras upon blanks to be furnished them for that purpose, and guarantee to sell not less than one-half of all Extras received.

All notes taken for Machines and Attachments to be due as follows: One-half on or before September 1st, 1900, and one-half on or about September 1st, 1901, with interest until paid.

This contract is not binding upon Deering Harvester Company until accepted by it at Chicago, Ill.

Deering Harvester Company.

Accepted and approved at Chicago, Ill., this 13th day of January, 1900.

Per L. G. Daruntatto.

Ben Goldbeck, Sales Agent.

Deering Harvester Company,

By P. M. Kelly.

In consideration of the appointment or retention of the above party as agent of Deering Harvester Company, for the sale of its harvesters, binders, reapers, mowers, hay rakes, trucks, extras, twine and other property in certain territory, the undersigned jointly and severally guarantee the fulfillment by said agent of all his obligations and duties growing out of and relating to such agency or otherwise that now or hereafter may exist, and we agree to pay said Deering Harvester Company, or its successors, all damages it or they may sustain by reason of any default of said agent, and we hereby waive notice of acceptance of the above contract, notice of default of the above named agent, demand and diligence; that the written acknowledgment of or a judgment of any court against said agent shall in every respect, bind and be conclusive against the undersigned, their heirs and representatives, and that the liability hereby created shall not be waived, modified or canceled by any extension of time to pay or keep any part of said obligations or duties, or otherwise, nor, except by surrender to us of this guaranty and agreement, or by endorsement hereon by Deering Harvester Company, at its Home office in Chicago, showing release or fulfillment thereof. No agent has authority to vary the terms of this contract of guaranty.

Witness our hands and seals \_\_\_\_\_ A. D. 19—

If contract is guaranteed affix 50 cents Internal Revenue stamp.

Endorsed on back as follows:

Jan. 8, 1900.

# COMMISSION AGENCY CONTRACT.

## DEERING HARVESTER COMPANY

(A copartnership.)

With

Ben Goldbeck, Agt. P. O. Florisant, County of St. Louis, State of Mo.

Preferred railway and express lines:

Telephone name Florisant.

Telephone Bell.

Freight Delivery Wabash.

Express Delivery Pacific.

R. R. Station name Ferguson.

County St. Louis.

State Mo.

Printed Matter to be divided as follows:

English 2-3.	German 1-3.
Norwegian ———	Swedish ———
Bohemian ———	Spanish ———

#### ESTIMATED SALES FOR 1900.

10 H. & B.          6 Mowers.

Signed L. G. Daruntatto.

Q. Mr. Yancey, how does the number of general agency points from which machines and repairs are distributed in Missouri now as compared with the number of agency points in Missouri in 1903? A. It has been increased at one point.

Q. Where is that? A. At St. Joe.

Q. I hand you, Mr. Yancey, what purports to be a list of competitors engaged in business in Missouri in different lines of agricultural implements, tools and machinery, and I will ask you if you are familiar with it, and as to whether it represents truly according to your knowledge the number of competitors in the several lines indicated in Missouri? A. I think that is a fairly complete list of our competitors of these several lines, the names mostly, if not all, are familiar to me.

Q. You have examined it prior to today? A. Yes, sir.

Q. I now identify the list as the exhibit introduced on yesterday, and I will introduce it as a part of the testimony of this witness, Mr. Yancey.

Hon. Selden P. Spencer, counsel for the respondent:

On behalf of the respondent, if your Honor please, we desire to offer in evidence as a part of Mr. Yancey's testimony the list of competitors of the International Harvester Company of America in the State of Missouri on the various lines handled by the respondent, and will ask that the same be marked as exhibit No. —, the same being the same list as offered on yesterday in connection with Mr. Funston's testimony.

Said list is marked exhibit No. —, and here appears in words and figures as follows as a part of the above witness' testimony.

#### CORN HARVESTERS AND BINDERS.

Name.	Address.	Trade Name.
1. Adriance Platt & Co.....	Poughkeepsie, N. Y.....	Adriance
C2. Johnston Harvester Co.....	Batavia, N. Y.....	Johnston
4. Walter A. Wood & Co.....	Hoosick Falls, N. Y..	New Century

## CORN HUSKERS AND SHREDDERS.

Name.	Address.	Trade Name.
C1. Advance Thresher Co.....	Battle Creek, Mich.....	Advance
C2. Appleton Mfg. Co.....	Batavia, Ill. ....	Appleton
C3. J. I. Case Threshing Mach. Co. ....	Racine, Wis. ....	Case
4. Deere & Mansur Co.....	Moline, Ill. ....	Deere
C5. Milwaukee Hay Tool Co.....	Milwaukee, Wis. ....	Milwaukee
8. Ohio Cultivator Co.....	Bellevue, Ohio. ....	Goodhue
9. Parsons Band Cutter & S. F. Co. ....	Newton, Iowa. ....	Success
C .Port Huron Engine & Thresh- er Co. ....	Port Huron, Mich.....	Port Huron
C11. Rosenthal Corn Husker Co..	Milwaukee, Wis. ....	Rosenthal
16. Taylor Husker & Shredder Co. ....	Joliet, Ill. ....	Taylor

## CORN PICKER AND HUSKER.

1. Deere & Mansur Co.....	Moline, Ill. ....	Deere
3. Port Huron Engine & Thresher Co. ....	Port Huron, Mich.....	Port Huron
4. Taylor Husker and Shredder Co. ....	Joliet, Ill. ....	Taylor

## CORN SHELLERS.

(One hole hand.)

2. Appleton Mfg. Co.....	Batavia, Ill. ....	Royal
8. Dain Mfg. Co.....	Ottumwa, Ia. ....	Dain
C9. Deere & Mansur Co.....	Moline, Ill. ....	Deere
14. Foos Mfg. Co.....	Springfield, Ohio. ....	Cyclone
C15. S. Freeman & Sons Mfg. Co.	Racine, Wis. ....	Freeman
C17. Harbison & Modica Mfg. Co.	Kansas City, Mo.....	Harmod
18. W. R. Harrison & Co.....	Massillon, Ohio. ....	Tornado
20. Hocking Valley Mfg. Co....	Lancaster, O. ....	Hocking Valley
22. Keystone Farm Machine Co..	York, Pa. ....	Economy
C24. Marseilles Mfg. Co.....	Marseilles, Ill. ....	Diamond
28. Ohio Rake Co.....	Dayton, O. ....	Little Giant
C31. Sandwich Mfg. Co.....	Sandwich, Ill.....	Corn King
35. Stover Mfg. Co.....	Freeport, Ill. ....	Tiger
38. U. S. Wing Engine & Pump Co. ....	Batavia, Ill. ....	
40. Whitman Agricultural Co....	St. Louis, Mo..	Mississippi Valley New Queen.

## CORN SHELLERS.

(Two Hole, Hand or Power.)

Name.	Address.	Trade Name.
3. Appleton Mfg. Co.....	Batavia, Ill. ....	Badger
C7. Deere & Mansur Co.....	Moline, Ill. ....	Deere
12. Foos Mfg. Co.....	Springfield, O..	Cyclone, Scientific
13. S. Freeman & Sons Mfg. Co..	Racine, Wis. ....	Freeman
17. Hocking Valley Mfg. Co.....	Lancaster, O. ....	Hocking Valley
C18. Joliet Mfg. Co.....	Joliet, Ill.....	Rural Ironsides Standard.
19. Keystone Farm Machine Co..	York, Pa. ....	Imperial
C20. Marseilles Mfg. Co.....	Marseilles, Ill...	Farmer, Favorite Pearl.
C24. Sandwich Mfg. Co.....	Sandwich, Ill. ....	Veteran
28. Stover Mfg. Co.....	Freeport, Ill. ....	Ideal
31. U. S. Wind Engine & Pump Co. ....	Batavia, Ill. ....	I. X. L. U. S.
33. Whitman Agr. Co.....	St. Louis, Mo..	King, New Derby, St. Louis

## CORN SHELLERS.

(Two Hole, Self Feed Power.)

1. Appleton Mfg. Co.....	Batavia, Ill. ....	New Hero
C2. Deere & Mansur Co.....	Moline, Ill. ....	Deere Junior
C4. Joliet Mfg. Co.....	Joliet, Ill. ....	Eureka, Ironsides
C6. Marseilles Mfg. Co.....	Marseilles, Ill...	Cyclone Junior Cyclone Senior, Leader, Chief
10. Whitman Agr. Co.....	St. Louis, Mo.....	Prince

## CORN SHELLERS.

(Four Hole Power.)

1. Appleton Mfg. Co.....	Batavia, Ill.....	New Hero
C2. Deere & Mansur Co.....	Moline, Ill. ....	Deere
3. S. Freeman & Sons Mfg. Co..	Racine, Wis. ....	Racine
C4. Joliet Mfg. Co.....	Joliet, Ill. ....	Eureka
C6. Marseilles Mfg. Co.....	Marseilles, Ill.	Cyclone Combination
C8. Sandwich Mfg. Co.....	Sandwich, Ill. ....	Sandwich

## CORN SHELLERS.

(Six Hole Power.)

C1. Deere & Mansur Co.....	Moline, Ill. ....	Deere
2. S. Freeman & Sons Mfg. Co..	Racine, Wis. ....	Racine
C3. Joilet Mfg. Co.....	Joilet, Ill.....	Eureka, Ironsides
C5. Marseilles Mfg. Co.....	Marseilles, Ill.	Cyclone Combination
C7. Sandwich Mfg. Co.....	Sandwich, Ill. ....	Keystone, Sandwich

## CORN SHELLERS.

(Eight Hole Power.)

Name.	Address.	Trade Name.
C1. Deere & Mansur Co.....	Moline, Ill. . . . .	Deere
C3. Marseilles Mfg. Co.....	Marseilles, Ill.	Cyclone Combination
C5. Sandwich Mfg. Co.....	Sandwich, Ill. . . . .	Sandwich

## CORN SHELLERS.

(Shuck Corn—Two Hole Power.)

C1. Marseilles Mfg. Co.....	Marseilles, Ill...	Marseilles Adams
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## CULTIVATORS.

1. S. L. Allen & Co.....	Philadelphia, Pa. . . . .	Planet, Jr.
C4. B. F. Avery & Sons.....	Louisville, Ky....	Avery, Trucker
6. Hateman Mfg. Co.....	Grenlock, N. J.....	Iron Age
C9. David Bradley Mfg. Co.....	Bradley, Ill.....	Bradley
11. Brown-Manley Plow Co.....	Malta, Ohio.	Steel King Steel Queen
C12. Brown Mfg. Co.....	Zanesville, Ohio . . . . .	Famous Farmers Favorite Genu- ine Brown.
13. Bucher & Gibbs Plow Co....	Canton, O. . . . .	Ideal, Imperial
C14. J. I. Case Plow Works.....	Racine, Wis. . . . .	Katydid
C19. Deere & Co.....	Moline, Ill. . . . .	Deere
C28. Fuller & Johnson Mfg. Co...	Madison, Wis..	Fuller & Johnson
Gale Mfg. Co.....	Albion, Mich. . . . .	Star
2. Harbison & Modica Mfg. Co.	Kansas City, Mo. . . . .	
34. Hartig-Becker Plow Co.....	Evansville, Ind. . . . .	Up-to-date
C43. Moline Plow Co.....	Moline, Ill. . . . .	Champion, Malta
C47. Ohio Cultivator Co.....	Bellevue, O. . . . .	Little Giant
48. Ohio Rake Co.....	Dayton, Ohio. . . . .	Planters Pride
C49. Parlin & Orendorff Co.....	Canton, Ill. . . . .	Canton
50. Peru Plow & Wheel Co.....	Peru, Ill. . . . .	Peru
C52. Rock Island Plow Co.....	Rock Island, Ill.....	Magnolia
55. So. Bend Chilled Plow Co....	South Bend, Ind....	New Market
56. Sparta Plow Works.....	Sparta, Ill. . . . .	New Market
59. J. Thompson & Sons Mfg. Co.	Beloit, Wis. . . . .	Thompson
63. W. A. Wood M. & R. M. Co..	Hoosick Falls, N. Y.....	Princess, Queen

## CREAM SEPARATORS.

C4. DeLaval Separator Co.....	New York, N. Y..	Acme, Alpha, Baby Daisy, Humming Bird, Standard.
U. S. Cream Separating Co..	Bellows Falls. . . . .	Onergo
C5. Empire Cream Separator Co.	Bloomfield, N. J.....	Empire
C12. Sharples Separator Co.....	West Chester, Pa.....	Sharples
C17. Waterloo Cream Separator Co. . . . .	Waterloo, Iowa. . . . .	Peerless
Smith Mfg. Co.....	Chicago, Ill. . . . .	Great Western

# ENGINES—GASOLINE.

Name.	Address.	Trade Name.
C4. Alamo Mfg. Co.....	Hillside, Pa. ....	Alamo
5. Alma Mfg. Co.....	Alma, Mich. ....	McVicker
10. Baker Mfg. Co.....	Evansville, Wis. ....	Baker, Little Baker, Monitor
C12. Bauez Mach. Works Co.....	Kansas City, Mo.....	Bauer, Rex.
13. Bauroth Bros. ....	Springfield, O. ....	Bauroth
6. Brown-Cochran Co.....	Lorain, Ohio. ....	Brown
C9. W. P. Callahan & Co.....	Dayton, O. ....	Callahan
C21. Capital Gas Engine Co.....	Indianapolis, Ind.....	Capital
C6. Challenge Co. ....	Batavia, Ill. ....	Challenge
1. Clay Center Wind Mill Co.....	Clay Center, Kas.....	Mercurus
C6. Dempster Mill Mfg. Co.....	Beatrice, Neb. ....	Dempster
C44. Fairbanks-Morse & Co.....	Chicago, Ill. ....	Fairbanks, Morse, Jack of all Trades
C46. Field-Brundage & Co.....	Jackson, Mich. ....	Field
48. Flinchbaugh Mfg. Co.....	York, Pa. ....	York
C49. Foos Gas Engine Co.....	Springfield, O.....	Foos, Foos, Jr.
50. Foos Mfg. Co.....	Springfield, O. ....	Scientific
51. Fort Scott Mfg. Co.....	Fort Scott, Kans.....	Scott
C56. Gilson Mfg. Co.....	Fort Washington, Wis.....	Gilson
C62. Hart-Parr Co.....	Charles City, Ia.....	Hart-Parr
65. Holliday Mfg. & Eng. Co.....	Chicago, Ill. ....	Holliday
66. Industrial Iron Works.....	Clinton, Mo. ....	Missouri
C70. Kansas City Hay Press Co.....	Kansas City, Mo.....	Lightning
73. Kneeland Mfg. Co.....	Lansing, Mich. ....	Kneeland
C76. C. P. & J. Lanson Co.....	Milwaukee, Wis.....	Badger
C77. John Lauson Mfg. Co.....	New Holstein, Wis.....	Lauson
C79. Lenox Machine Co.....	Marshalltown, Ia. ....	Lennox
80. Macgowan & Finigan F. & M. Co. ....	St. Louis, Mo.....	Perfect
81. Hugh Matthews. ....	Kansas City, Mo.....	Matthews-Davis
84. Middletown Mach. Co.....	Middletown, O. ....	Woodpecker
85. Milwaukee Machinery Co.....	Milwaukee, Wis. ....	Milwaukee
94. New Era Gas Engine Co.....	Dayton, O. ....	Little Giant New Era
95. New Holland Machine Co.....	New Holland, Pa.....	New Holland
C97. New Way Motor Co.....	Lansing, Mich.....	New Way
C101. Olds Gas Power Co.....	Lansing, Mich.....	Olds
C103. Otto Gas Engine Works.....	Philadelphia, Pa. ....	Otto
C106. Perkins Wind Mill Co.....	Mishawaka, Ind. ....	Perkins
C115. St. Mary's Machine Co.....	St. Marys, O.....	St. Marys
118. Charles Sinning Mach. Wks.	St. Louis, Mo.....	Sinning
C122. Chas. A. Stickney Co.....	St. Paul, Minn.....	Stickney, St. Paul
C124. Stover Engine Works.....	Freeport, Ill. ....	Stover
C131. Waterloo Gasoline Engine Co. ....	Waterloo, Ia. ....	Waterloo
C133. Weber Gas Engine Co.....	Kansas City, Mo.....	Weber
134. Webster Mfg. Co.....	Chicago, Ill. ....	Webster, Webster Handy Man



# ENGINES—GASOLINE—Continued.

Name.	Address.	Trade Name.
135. Western Malleable & Gray Iron. . . . .	Milwaukee, Wis. . . . .	Simplicity
(136. Westinghouse Mfg. Co. . . . .	Schenectady, N. Y. . . . .	Westinghouse
(139. Witte Iron Works Co. . . . .	Kansas City, Mo. . . . .	Witte, Witte, Jr.

## GRAIN BINDER COVERS.

C1. Acme Harvesting Machine Co. . . . .	Peoria, Ill. . . . .	Acme
C2. Johnston Harvester Co. . . . .	Batavia, N. Y. . . . .	Johnston

## GRAIN BINDERS.

C1. Acme Harvesting Mch. Wks. Peoria, Ill. . . . .	Acme Queen	
C3. Johnston Harvester Co. . . . .	Batavia, N. Y. . . . .	Johnston Bonnie, Johnston Conti- nental.
6. W. A. Wood M. & R. M. Co. . . . .	Hoosick Falls. . . . .	New Century

## GRAIN HEADERS.

C1. Acme Harvesting Mach. Co. . . . .	Peoria, Ill. . . . .	Acme Craver, Acme Hodges, Acme King, Randolph
C2. Johnston Harvester Co. . . . .	Batavia, N. Y. . . . .	Johnston Conti- nental

## GRAIN HEADER BINDERS.

C1. Acme Harvesting Mch. Co. . . . .	Peoria, Ill. . . . .	Acme King
C2. Johnston Harvester Co. . . . .	Batavia, N. Y. . . . .	Johnston

## HARROWS.

(Cut Out Disks.)

C1. B. F. Avery & Sons. . . . .	Louisville, Ky. . . . .	Eureka, Tornado
2. E. Bennets Sons. . . . .	Lansing, Mich. . . . .	Anderson, Lansing Junior, Michigan.
C3. Davis Bradley Mfg. Co. . . . .	Bradley, Ill. . . . .	Ideal
4. Bucher & Gibbs Plow Co. . . . .	Canton, O. . . . .	Imperial
C6. Deere & Mansur Co. . . . .	Moline, Ill. . . . .	Deere
C7. Emerson Mfg. Co. . . . .	Rockford, Ill. . . . .	Emerson
C9. Grand Detour Plow Co. . . . .	Dixon, Ill. . . . .	Grand Detour, New Grand Detour
C10. Janesville, Mach. Co. . . . .	Janesville, Wis. . . . .	Janesville VanDyke
C11. Johnston Harvester Co. . . . .	Batavia, N. Y. . . . .	Johnston Conti- nental
C13. Moline Plow Co. . . . .	Moline, Ill. . . . .	Economy
C15. Ohio Rake Co. . . . .	Dayton, Ohio. . . . .	Dayton
C16. Parlin & Orendorf Co. . . . .	Canton, Ill. . . . .	Canton
C17. Rock Island Plow Co. . . . .	Rock Island, Ill. . . . .	Bonanza, Defiance
20. Sterling Mfg. Co. . . . .	Sterling, Ill. . . . .	Standard, Sterling
22. Thompson & Sons. . . . .	Beloit, Wis. . . . .	

## HARROWS.

(Disk.)

Name.	Address.	Trade Name.
C1. B. F. Avery & Sons.....	Louisville, Ky. ....	Tornado
C3. E. Bennet's Sons .....	Lansing, Mich. ....	Anderson, Lansing, Junior, Michigan
C4. David Bradley Mfg. Co.....	Bradley, Ill. ....	
C6. Brown Mfg. Co.....	Zanesville, O. ..	Bradley, Jr., Ideal
8. Bucher and Gibbs Plow Co..	Canton, O. ....	Imperial, Perfect
C9. J. I. Case Plow Works.....	Racine, Wis.....	Case, J. I. Case
C14. Deere & Mansur.....	Moline, Ill.....	Deere, Deere, Jr., Deere, Model, Deere, Universal
C17. Eagle Mfg. Co.....	Kansas City, Mo.....	Eagle
C18. Emerson Mfg. Co.....	Rockford, Ill....	Emerson, Sandow
C23. Gale Mfg. Co.....	Albion, Mich.....	Albion, Gale
24. Galesburg-Coulter Disc Co...	Galesburg, Ill...	Galesburg, Brown
C25. Grand Detour Plow Co.....	Dixon, Ill.....	Grand Detour, New Grand Detour
26. Hancock Disc Plow Co.....	Alton, Ill. ....	
C29. Janesville Machine Co.....	Janesville, Wis....	Budlong, Janes- ville
C30. Johnston Harvester Co.....	Batavia, N. Y....	Johnston Conti- nental
C31. Kingman Plow Co.....	Peoria, Ill. ....	Kingman
C33. Roderick Lean Mfg. Co.....	Mansfield, O.....	Lean, Roderick Roderick Lean
37. P. P. Mast & Co.....	Springfield, O. ....	Buckeye
C38. Moline Plow Co.....	Moline, Ill. ....	Economy
C42. Ohio Mfg. Co.....	Upper Sandusky Ohio.....	Ohio
C44. Parlin & Orendorff Co.....	Canton, Ill.....	Canton, Star
45. Peru Plow & Wheel Co.....	Peru, Ill. ....	Peru
C46. Racine Sattley Co.....	Springfield, Ill...	Governor Sattley, Jr.
C48. Rock Island Plow Co.....	Rock Island, Ill...	Bonanza, Defiance Little Bonanza
C49. St. Joseph Plow Co.....	St. Joseph, Mo.....	St. Joseph
C56. Thomas Mfg. Co.....	Springfield, Ohio.....	Southern, Thomas
57. J. Thompson & Sons Mfg. Co.	Beloit, Wis. ....	Eclipse
50. W. A. Wood M. & R. M. Co..	Hoosick Falls, N. Y....	Walter A. Wood

## HARROWS.

(Disc Ore. Hard—Reversible.)

C1. B. F. Avery & Sons.....	Louisville, Ky....	Avery's Eureka
C4. Deere & Mansur Co.....	Moline, Ill.....	California, Deere Deere Universal
C8. Johnston Harvesting Co.....	Batavia, N. Y.....	Johnston
C9. Kingman Plow Co.....	Peoria, Ill.....	M. K.

Name.	Address.	Trade Name.
C12. Moline Plow Co.....	Moline, Ill. ....	Moline
C14. Ohio Rake Co.....	Dayton, Ohio .....	Atlanta
C16. Racine-Sattley Co.....	Springfield, Ill. ....	Racine-Sattley
19. W. A. Wood M. & R. M. Co..	Hoosick Falls, N. Y. ....	Walter A. Wood

## HARROWS.

(Spike Tooth, Steel Frame.)

C3. B. F. Avery & Sons.....	Louisville, Ky. ....	Avery
C6. E. Bennett's Sons.....	Lansing, Mich. ....	Bement
C10. David Bradley Mfg. Co.....	Bradley, Ill. ....	Bradley
C12. Brown Mfg. Co.....	Zanesville, Ohio .....	Brown
13. Bucher & Gibbs Plow Co....	Canton, Ohio...Imperial, Imperial Zig Zag	
C15. J. I. Case Plow Works.....	Racine, Wis.....	Crittie, J. I. Case
C19. Deere & Co.....	Moline, Ill.....	Deere, Deere Universal
C22. Eagle Mfg. Co.....	Kansas City, Mo.....	Eagle
C23. Emerson Mfg. Co.....	Rockford, Ill. ....	Emerson
C27. Gale Mfg. Co.....	Albion, Mich. ....	Gale
C28. Grand Detour Plow Co.....	Dixon, Ill. ....	Grand Detour
29. Hancock Disk Plow Co.....	Alton, Ill.....	Hancock, LaDow
31. Hays Pump & Planter Co....	Galva, Ill. ....	Hayes
C37. Janesville Mach. Co.....	Janesville, Wis. ....	Janesville
C41. Kingman Plow Co.....	Peoria, Ill. ....	Kingman
44. Roderick Lean Mfg. Co.....	Mansfield, O....	Lean, Roderick, Roderick, Lean
46. McGowan & Finnigan F. & M. Company .....	St. Louis, Mo.....	M. & F.
C48. Moline Plow Co.....	Moline, Ill. ....	Moline
C52. Parlin & Orendorff Co.....	Canton, Ill....	Canton Climax, Dia- mond, Favorite Guard Round Bar
54. Peru Plow Co.....	Peru, Ill. ....	Peru
C56. Racine Sattley Co.....	Springfield, Ill.....	Sattley, Togo
C58. Rock Island Plow Co.....	Rock Island, Ill.....	Rock Island
61. Sparta Plow Works.....	Sparta, Ill. ....	Sparta
68. J. Thompson & Sons Mfg. Co.	Beloit, Wis. ....	Champion
70. W. A. Wood M. & R. M. Co..	Hoosick Falls, N. Y. ....	Walter A. Wood

## HARROWS.

(Spring and Spike Tooth Combined.)

1. Hancock Disc Plow Co.....	Alton, Ill. ....	LaDow
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## HARROWS.

(Spring Tooth—Steel Frame.)

12. Gale Mfg. Co.....	Albion, Mich. ....	Albion
24. W. A. Wood M. & R. M. Co..	Hoosick Falls, N. Y. ....	Walter A. Wood

## HAY LOADERS.

- C3. Deere & Mansur Co.....Moline, Ill..Deere and New Deere  
Sandwich Mfg. Co.....  
Dain Mfg. Co.....  
Rock Island Plow Co.....

## MAY PRESSES.

(One Horse)

3. Ohio Cultivator Co.....Bellevue, O. ....Ohio

## HAY PRESSES.

(Two Horse.)

- |      |  |                        |   |
|------|--|------------------------|---|
| C1.  | Admiral Hay Press Co.....                    | Kansas City, Mo.....   | Admiral   |
| C2.  | Ann Harbor Machine Co....                    | Ann Arbor, Mich.....   | Ann Arbor   |
| C3.  | Auto Fedan Hay Press Co...                   | Topeka, Kans.....      | Auto, Fedan   |
| C5.  | David Bradley Mfg. Co.....                   | Bradley, Ill. ....     | Bradley   |
| C7.  | Chattanooga I. & M. Co.....                  | Chattanooga, Tenn..    | Chattanooga,<br>Chickamauga,<br>New Chicka-<br>mauga, Royal |
| C8.  | Collins Plow Co.....                         | Quincy, Ill. ....      | Eli, Noval  |
| C9.  | Dain Mfg. Co.....                            | Ottumwa, Ia. ....      | Dain  |
| C11. | Eagle Mfg. Co.....                           | Kansas City, Mo.....   | Eagle   |
| C12. | Eclipse Hay Press Co.....                    | Kansas City, Mo.....   | Eclipse   |
| 13.  | Geo. Ertel Co.....                           | Quincy, Ill. ..        | Economy, Gem, Star,<br>Victor                               |
| C18. | Kansas City Hay Press Co...                  | Kansas City, Mo..      | Lightning, Light-<br>ning, Jr.                              |
| C23. | Midland Mfg. Co.....                         | Tarkio, Mo.....        | Midland   |
| C25. | Ohio Cultivator Co.....                      | Bellevue, O.....       | Ohio  |
| 27.  | Parsons Band Cutter & S. F.<br>Company ..... | Newton, Ia. ....       | Buffalo   |
| 31.  | St. Joseph Plow Co.....                      | St. Joseph, Mo.....    | St. Joseph  |
| C32. | Sandwich Mfg. Co.....                        | Sandwich, Ill....      | American, New<br>Way, Sandwich,<br>Southwick,<br>Western    |
| C33. | Scott Hay Press Co.....                      | Kansas City, Mo.....   | O. K. X. L.   |
| C35. | H. N. Strait Mfg. Co.....                    | Kansas City, Kans..... | National  |
| 36.  | Western Steel & Wire Co....                  | Kansas City, Mo.....   | New Century   |
| C37. | Whitman Mfg. Co.....                         | St. Louis, Mo....      | Colonial, Eclipse,<br>Steel Beauty,<br>Universal            |

## HAY RAKES.

(Side Delivery.)

- |                            |                     |          |
|----------------------------|---------------------|----------|
| C2. Dain Mfg. Co.....      | Ottumwa, Ia. ....   | Dain's   |
| C3. Deere & Mansur Co..... | Moline, Ill. ....   | Deere    |
| C6. Sandwich Mfg. Co.....  | Sandwich, Ill. .... | Sandwich |

## HAY RAKES.

## Sulky—Hand Dump.)

Name.	Address.	Trade Name.
C1. Acme Harvesting Mach. Co.	Peoria, Ill.	Acme, Laddie, Tommy Atkins
C2. David Bradley Mfg. Co.	Bradley, Ill.	Queen
C5. Deere & Mansur Co.	Moline, Ill.	New Deere, Deere
C7. Emerson Mfg. Co.	Rockford, Ill.	Standard Sandow
8. Fuller & Johnson Mfg. Co.	Madison, Wis.	Fuller & Johnson
10. Hocking Valley Mfg. Co.	Lancaster, Ohio	Hocking Valley
C13. Ohio Rake Co.	Dayton, Ohio	Hollingworth Steel King
17. St. Joseph Plow Co.	St. Joseph, Mo.	
C19. Thomas Mfg. Co.	Springfield, Ohio	Thomas, Western
21. W. A. Wood M. & R. M. Co.	Hoosick Falls, N. Y.	Walter A. Wood

## HAY RAKES.

## Sulky—Self Dump.

C1. Acme Harvesting Machine Co.	Peoria, Ill.	Acme Lassie
C2. David Bradley Mfg. Co.	Bradley, Ill.	Queen
C7. Deere & Mansur Co.	Moline, Ill.	Deere, New Deere
C12. Johnston Harvester Co.	Batavia, N. Y.	Johnston
15. Ohio Rake Co.	Dayton, Ohio	Ohio Champion
C22. Thomas Mfg. Co.	Springfield, Ohio	Steel Reliable
26. Walter A. Wood M. & R. M. Co.		
Company	Hoosick Falls, N. Y.	Walter A. Wood

## HAY RAKES.

## (Sweep.)

C1. Acme Harvesting Machine Co.	Peoria, Ill.	Acme Giant, Acme
2. A. T. Boney & Co.	Cairo, Mo.	Boney's
3. Thos. A. Barley	Sedalia, Mo.	Boss, Excelsior Jumbo, Katy
C7. Dain Mfg. Co.	Ottumwa, Ia.	Dains Folding, Dains New Idea, Dains Pipe Axle, Dains Power Lift, Dains Truss Frame
8. Eagle Mfg. Co.	Kansas City, Mo.	Eagle
9. Eclipse Hay Press Co.	Kansas City, Mo.	Eclipse
10. Farm Tool Mfg. Co.	Carrollton, Mo.	Advance, American, Favorite
C11. Fleming & Sons Mfg. Co.	Huntsville, Mo.	Fleming
C15. Jenkins Hay Rake & Stacker Company	Browning, Mo.	Climax, Jenkins
C16. Kansas City Hay Press Co.	Kansas City, Mo.	Champion
18. McCall Mfg. Co.	Macon, Mo.	
C19. Midland Mfg. Co.	Tarkio, Mo.	Midland
21. Scott Hay Press Co.	Kansas City, Mo.	
22. Smith & Sons Mfg. Co.	Kansas City, Mo.	Royal

## HAY STACKERS.

Name.	Address.	Trade Name.
2. Thos. K. Barley.....	Sedalia, Mo.....	Barley Giant
3. A. T. Boney & Co.....	Cairo, Mo. ....	
8. Eagle Mfg. Co.....	Kansas City, Mo.....	Eagle
9. Eclipse Hay Press Co.....	Kansas City, Mo.....	Eclipse
10. Farm Tool Mfg. Co.....	Carrollton, Mo. ....	American
C11. Fleming & Sons Mfg. Co....	Huntsville, Mo. ....	Fleming
C14. Jenkins Hay Rake & Stacker Company . . . . .	Browning, Mo....	Climax, Jenkins
C15. Kansas City Hay Press Co...	Kansas City, Mo.....	Champion, Lightning
C20. Scott Hay Press Co.....	Kansas City, Mo.....	O. K.
21. Stalcup Hay Stacker Mfg. Co.	Unionville, Mo.....	Stalcup
C22. Superior Hay Stacker Mfg. Company . . . . .	Linneus, Mo....	Superior, Superior Rotary.
Dain Mfg. Co.....	Ottumwa, Ia. ....	Dain

## HAY TEDDERS.

C3. Dain Mfg. Co.....	Ottumwa, Ia. ....	Dain
C6. Johnston Harvester Co.....	Batavia, N. Y.....	Johnston
9. Ohio Rake Co.....	Dayton, Ohio...	Monarch, O. R. C.
C12. Thomas Mfg. Co.....	Springfield, O....	Reliable, Royal Triumph
13. W. A. Wood M. & R. M. Co..	Hoosick Falls, N. Y.....	Walter A. Wood

## KNIFE GRINDERS.

(Mower.)

2. Ajax Mfg. Co.....	Pittsburg, Pa. ....	Vulcan
4. Chicago Steel & Mfg. Co.....	Chicago, Ill....	Crown, Gem, Jewel
C7. R. Herschel Mfg. Co.....	Peoria, Ill....	Herschel, New Model

## MANURE SPREADERS.

1. Appleton Mfg. Co.....	Batavia, Ill. ....	Appleton
C6. Kemp & Burpee Mfg. Co....	Syracuse, N. Y.....	Kemp, Success
C7. Litchfield Mfg. Co.....	Waterloo, Ia. ....	Litchfield
C8. Mandt Wagon Co.....	Stoughton, Wis. ....	National
C10. Newark Machine Co.....	Newark, O. ....	Miller
C13. Richardson Mfg. Co.....	Worcester, Mass..	Worcester, Kemp
C15. E. W. Ross Co.....	Springfield, O. ....	Ross
C17. D. M. Sechler Carriage Co...	Moline, Ill. ....	Black Hawk
C18. Smith Mfg. Co.....	Chicago, Ill.....	Great Western

## MOWERS.

C1. Acme Harvesting Machine Co.	Peoria, Ill.....	Acme Giant, Acme Hodges
2. Adriance, Platt & Co.....	Poughkeepsie, N. Y.....	Adriance

Name.	Address.	Trade Name.
3. M. M. Baker & Co.....	Peoria, Ill. ....	Baker
C4. Dain Mfg. Co.....	Ottumwa, Ia. ....	Dain
C5. Emerson Mfg. Co.....	Rockford, Ill. ....	New Standard
C8. Johnston Harvester Co.....	Batavia, N. Y. ....	Johnston
C16. Thomas Mfg. Co.....	Springfield, O. ....	Crown
C17. Weber Imp. Co.....	St. Louis, Mo. ....	Koenig, Buckeye
18. W. A. Wood M. & R. M. Co..	Hoosick Falls, N. Y. ....	Walter A. Wood

## REAPERS.

C1. Acme Harvesting Machine Co.	Peoria, Ill. ....	Hodges
2. Adriance Platt & Co.....	Poughkeepsie, N. Y. ....	Adriance
C3. Johnston Harvester Co.....	Batavia, N. Y. ....	Johnston Conti- nental
6. W. A. Wood M. & R. M. Co..	Hoosick Falls, N. Y. ....	Walter A. Wood

	Location.	Estimated sales 1907 (tons).	Capacity (tons) (Day run only.)
3. Edwin H. Filler & Co.	Philadelphia, Pa. . .	1,000	5,000
4. J. C. Croendyke Co..	Chicago, Ill. ....	4,000	3,000
C5. Hooven & Allison...	Xenia, O. ....	2,500	4,000
7. R. A. Kelly Co.....	Xenia, O. ....		500
8. Kentucky River Mills.	Frankfort, Ky. ...		
C9. Ludlow Mfg. Assn. ....	Boston, Mass. ....	3,000	3,000
C12. Peoria Cordage Co..	Peoria, Ill. ....	2,500	4,000
C13. Plymouth Cordage Co.	Plymouth, Mass..	20,000	20,000
C15. St. Louis Cordage Co..	St. Louis, Mo. ....	2,000	2,000
C26. Missouri Prison.....	Jefferson City, Mo.	450	1,500

## WOOD SAWING MACHINES.

(Gasoline—Portable.)

5. Baker Mfg. Co.....	Evansville, Wis. ....	Baker
C8. Challenge Co. ....	Batavia, Ill. ....	Challenge
C11. Fairbanks-Morse & Co.....	Chicago, Ill. ....	Fairbanks, Morse
C15. Foos Gas Engine Co.....	Springfield, O. ....	Foos

## WAGONS.

C1. Abingdon Wagon Co.....	Abingdon, Ill. ...	Abingdon, Clinton
C5. Avery Mfg. Co.....	Peoria, Ill. ....	Avery
C6. Bain Wagon Co., Ltd.....	Kenosha, Wis. ....	Bain
C11. Birdsall Mfg. Co.....	So. Bend, Ind. ....	Birdsell
C17. Brown Mfg. Co.....	Zanesville, O. ....	Brown
23. Champion Wagon Co.....	Owego, N. Y. ....	Champion
24. Chattanooga Wagon Co....	Chattanooga, Tenn. .	Chattanooga
C27. Coquillard Wagon Works...	Henderson, Ky. ....	
C28. Davenport Wagon Co.....	Davenport, Ia. ....	Davenport
C31. Electric Wheel Co.....	Quincy, Ill. ....	Electric
32. Empire Mfg. Co.....	Quincy, Ill. ....	



## WAGONS—Continued.

Name.	Address.	Trade name.
C34. Fish Bros. Mfg. Co.....	Clinton, Ia. ....	Fish Bros.
C35. Fish Bros. Wagon Co.....	Racine, Wis. ....	Fish Bros.
C36. Flint Wagon Works.....	Flint, Mich. ....	Flint
C39. Fort Smith Wagon Co.....	Fort Smith, Ark. ....	Fort Smith
C40. Fuller & Johnson Mfg. Co...	Madison, Wis. ....	Badger
43. Harrison Wagon Co.....	Grand Rapids, Mich.....	Harrison
47. Hickman-Ebert Co. ....	Owensboro, Ky. ....	Ebbert
48. Hickman Wagon Co.....	Hickman, Ky. ....	Hickman
50. Indiana Wagon Co.....	Lafayette, Ind. ....	Indiana
C52. Ionia Wagon Co... ..	Ionia, Mich. ....	Bible
54. Jonesboro Wagon Co.....	Jonesboro, Ark. ....	Jonesboro
55. Karges Wagon Co.....	Evansville, Ind. ....	Karges
C56. Keller Mfg. Co.....	Corydon, Ind. ....	Corydon
58. Keller Mfg. Co.....	Joplin, Mo. ....	Keller
C59. Kentucky Wagon Mfg. Co...	Louisville, Mo. . Kentucky.	Hickory
61. Henry Knapheide Wagon Co.	Quincy, Ill. ....	Knapheide
63. Lang & Bro. Mfg. & Mer. Co.	Farmington, Mo. ....	Lang
C67. Linstroth Wagon Co.....	St. Louis, Mo.....	Linstroth
69. Luedinghaus-Espenschied Wagon Co. ....	St. Louis ....	Luedinghaus
C72. Mandt Wagon Co.....	Stoughton, Wis. ....	Mandt
C73. Milburn Wagon Co.....	Toledo, O. ....	Milburn
C74. Miller Wagon Co.....	Edina, Mo. ....	Miller
C75. Mitchell & Lewis Co., Ltd...	Racine, Wis. ....	Mitchell
C77. Moline Plow Co.....	Moline, Ill... Moline, New Moline, The Moline	
C82. Newton Wagon Co.....	Batavia, Ill. ....	Newton
C86. O'Brien Wagon Works.....	Shenandoah, Ia. ....	O'Brien
C89. Owensboro Wagon Co.....	Owensboro, Ky. ....	Owensboro
92. Peoria Wagon Co.....	Peoria, Ill. ....	Peoria
94. Piedmont Wagon Co.....	Hickory, N. C.....	Piedmont
C96. Racine-Sattley Co.....	Racine, Wis... New Sattley, Racine	
C102. Peter Schuttler .....	Chicago, Ill. ....	Schuttler
105. Springfield Wagon Co....	Springfield, Mo. ....	Springfield
C106. Stoughton Wagon Co.....	Stoughton, Wis. ....	Stoughton
C108. Studebaker Bros. Mfg. Co..	So. Bend, Ind. ....	Studebaker
C114. Troy Wagon Works Co....	Troy, O. ....	Troy
C115. Turnbull Wagon Co.....	Defiance, O. ....	Turnbull
C116. Joel Turney & Co.....	Fairfield, Ia. ....	Charter Oak
C120. Winona Wagon Co.....	Winona, Minn. ....	Winona

Q. What was the practice in regard to the insurance on commission agency goods?

Hon. Theodore Brace, Commissioner:

Q. Before you go into that I want to ask you——. Are all these lines of goods manufactured by the International Harvester Company of New Jersey? A. This list contains the names of the manufacturers of similar goods, our goods are not contained in this list at all.

Q. Are these lines all manufactured by the New Jersey Company? A. The lines we handle are manufactured by the New Jersey Company.

Q. I want to know if these lines of goods are manufactured by the International Harvester Company of New Jersey? A. None of these.

Hon. Selden P. Spencer, Counsel for Respondent:

Are the different lines of goods, corn harvesters and binders, corn huskers and shredders, and corn pickers, the different lines of goods mentioned in that exhibit to which you just made reference are similar articles manufactured by the International Harvester Company of New Jersey? A. Yes, sir.

Hon. Theo. Brace, Commissioner:

Then you can answer my question.

Q. All this line of goods mentioned in that memoranda are they manufactured by the International Harvester Company of New Jersey? A. Yes, sir.

Q. Does the International Harvester Company of America handle only the line of goods that are manufactured by the International Harvester Company of New Jersey? A. Substantially so, they sometimes buy a few goods on the outside to complete a deal, but substantially all the goods they handle are manufactured by the International Harvester Company of New Jersey.

Hon. Selden P. Spencer, Counsel for Respondent:

Q. But Mr. Yancey, as a matter of fact, the America Company does handle goods that are not manufactured by the International Harvester Company of New Jersey at all? A. Yes, sir.

Q. But the bulk of the business of the America Company is confined to the goods that are manufactured by the New Jersey Company? A. Yes, sir; that is true.

Q. But the America Company is not engaged exclusively in the sale of goods manufactured by the New Jersey Company? A. It is not.

Hon. Theodore Brace, Commissioner:

Q. I understood, you say exclusively, I understood your answer to the questions that when you could not get goods manufactured by the New Jersey Company you get goods from their other houses? A. No, sir; not any goods, we make, for instance—we sell the Belle City thresher, it is made by the Belle City Thresher Company at Racine, Wisconsin, and often times we go out and buy a pump to complete a gasoline engine.

Hon. Theo. Brace, Commissioner:

Q. That is the character of the buying? A. Yes, sir.

Q. How about Mr. Yancey, dynamos and electrical goods? A. Yes, sir; we have bought these on the outside.

Q. Are they manufactured by the International Harvester Company of New Jersey? A. No, sir.

Q. How about feed cutters? A. We have bought them from the Belle City Company, and others.

Q. Are they manufactured by the International Harvester Company of New Jersey? A. No, sir.

Q. Do you remember any other lines that are dealt in and not manufactured by them? A. Pumps and corn burrs, and leather belting and goods of that character.

Q. What has been the course in the insurance on commission goods, does the company or the dealer carry the insurance? A. The company carries it.

Q. And since when? A. Since about 1903 or 1904, I am not sure.

Q. And before that by contract, who was required to carry it? A. The dealer.

Q. Mr. Yancey can you tell what has been the course of prices in agricultural implements outside of the harvesting line in Missouri, in the last seven years; between 1903 and 1909? A. There has been quite a general advance, a tendency of prices have been upward.

Q. Could you tell us generally what is the general increase in prices in agricultural tools and machinery outside of the binders and mowers, what it has been before 1903, and what it is now? A. I could tell you that only from kind a talking with others in that line.

Q. What has that been? A. I should estimate between fifteen to 20 per cent.

#### CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. Now, Mr. Yancey, you state on the various lines manufactured by the International Harvester Company of New Jersey, and handled through your company, that is the International Harvester Company of America, that it does about what per cent of the total business in this state? A. I think about 25 per cent.

Q. About 25 per cent? A. Yes, sir.

Q. What in dollars and cents represents the amount of business done by the International Harvester Company of America in Missouri for the year that you say they did about 25 per cent? A. I could not answer that question because I handle less than a one-sixth part of this state.

Q. What represents in dollars and cents the total amount of business done in Missouri by your company and your competitors on the lines sold by your company? A. That would be impossible for me to answer.

Q. How then do you arrive at your estimates that your company does 25 per cent of the business in the state? A. The way that I reach any other conclusion by talking with others engaged in the same line of work and our own traveling men, and our knowledge of the territory and crop conditions, etc.

Q. You have no idea about how many binders were sold in Missouri last year? A. I don't know of my own knowledge. I have conferred with these other men, the traveling men, they have told me how many binders we sell.

Q. You have no idea how many binders the Acme sold in Missouri last year? A. I have no accurate knowledge.

Q. You have no definite or indefinite knowledge as to the number of binders sold by the Johnston last year in Missouri? A. I will make the same answer as to the other question.

Q. You have no definite or indefinite information as to the number of binders sold by the Johnston? A. I have no definite, I have an indefinite knowledge by talking to others.

Q. With whom have you talked? A. With my own traveling men and also local dealers.

Q. Over all sections of Missouri? A. Not over all, but over most every part.

Q. What counties are in your territory? A. Sixteen counties in Missouri.

Q. These are counties you had agents here testifying from yesterday and the day before? A. Yes, sir; part and part not.

Q. The agents from Platte county, Lafayette county and Henry county, those counties are in your district? A. Yes, sir.

Q. Are you basing your testimony in any manner upon their testimony to the effect that your company did practically all the business in their counties? A. I wish to say in answer to that question, I was not here day before yesterday, I did not hear those witnesses testify.

Q. Are you in any manner basing your testimony on information you received from these counties? A. Yes, sir.

Q. You have no idea as to what amount represents the total business in this state on corn huskers and shellers, have you? A. I know that we in my territory get a very small per cent of that trade.

Q. But as to the total amount of business done in this state done by your company and the other companies, you have not the slightest idea as to the amount of business done? A. I have no knowledge; no, sir.

Q. You have no slight idea as to the amount of business done by your company and the others in the entire state? A. No, sir; I have no definite idea.

Q. You have not even the slightest idea, have you, of the total amount of business done by your company and your competitors that is done on the corn shellers? A. I shall not express that in dollars and cents or in per cent.

Q. Well, in numbers of machines? A. No, sir; I could not, I do not know the number of machines, I did not specify in arriving at the amount a while ago, I have no general knowledge of that except in comparing points and taking what I got from talking with the people that are selling these machines.

Q. You do not mean to say you come in contact with representatives from every section of the state, that you discuss the amount of business done by each of these of this long list of your competitors? A. I do not come in contact with them from every part of the state, Kansas City is the leading trade center and at our conventions and associations we do more or less meet people from all over the state.

Q. Is it a part of your duty to keep a line on the amount of business that is being done by other companies? A. Only in a gen-

eral way when for my own general information as to the business done in the territory.

Q. Do you give instructions to your men to look after the business done by your competitors to the end that you can meet this competition if necessary? A. No, sir; I have nothing on the line like that.

Q. These employes you have, have no knowledge of the amount of business done by your own company or your competitors? A. I have a slight idea, I have no accurate or definite amount.

Q. You have no such information that would enable you to make anything like a fair estimate of the business done, have you? A. I could make a fair estimate, I reach my own conclusions as I stated before by conferring with others, I would dislike very much if I had no knowledge of what was going on in my own territory.

Q. What part of the business would you say that the Moline Plow Company does in this state on cultivators? A. I have no idea.

Q. And the Ohio Cultivator Company, what per cent do they do on cultivators? A. I cannot answer.

Q. That would be your answer to all of these companies mentioned in this list, would it? A. Yes, sir; to repeat as to any definite information it would.

Q. Do you know definitely that all of the companies listed in this list are now doing business in Missouri? A. I don't know definitely, but I think they are. All those names are familiar to me.

Q. You think they are? A. Yes, sir.

Q. You know nothing about the capital stock, and size and general extent of the business done by these different competitors so called, do you? A. No, sir; I do not, only in a general way, I have seen from time to time the capital stock of certain companies, but it does not make very much impression on me, it is not a part of my business.

Q. That is true of all of these competitors in this list of yours? A. Yes, sir.

Q. Do you know how many competitors you have in this state on wagons? A. I do not definitely, I know there are quite a number, quite a large number of concerns building and selling wagons, in the state of Missouri.

Q. Your company has made quite a special effort along the wagon line of recent years, have they not? A. Yes, sir.

Q. Now you say that salaries and expenses in the Kansas City department have been constantly increasing in recent years? A. Yes, sir.

Q. Your lines of implements have been constantly increasing, have they not? A. Yes, sir.

Q. Been adding new lines from year to year? A. Yes, sir; but I will add in that connection the expenses have increased in greater ratio as the volume of business, than has the per cent of business, that is the per cent of business in 1909 is greater than in the previous years notwithstanding the added line.

Q. What do you base your testimony on, that 60 per cent of the repairs in Missouri are carried over? A. From my knowledge of the business in Kansas City we invoice the repairs at the end of the sea-

son, in the hands of the local agents in the country and also those in the warehouse at Kansas City, and we figure when we sell 35 per cent of the repairs carried in stock, we have done real well.

Q. What do you know about the invoice of the repairs in Springfield, St. Louis and St. Joe? A. I have no idea except in talking with Mr. Funston, Mr. Chriswell and Mr. Dougherty.

Q. Then your testimony given in your examination in chief was principally all based merely on matters that have been told you by other employees of the company since this suit was instituted, has it not? A. It has not been told to me at any particular time or by any particular person, I am just saying, I just meet these general agents from time to time at my place or in Chicago, we naturally talk the business over and compare points, anything that has to do with our own business, I do not set down any figures.

Q. What proportion of the amount of total business done in this state by you is done by your office on gasoline engines; what proportion of your total business? A. That would be a question difficult for me to answer without consulting my books.

Q. Well, give me your estimate, based on the same character of information that you have been giving these other estimates on? A. Why it is less than five per cent. of our total business, that is represented by gasoline engines.

Q. Now do you know what your business on gasoline engines amounts to in this state? A. I am speaking only from memory. In the absence of the books.

Q. Well, what amount speaking from memory would you say that you do in this state in dollars and cents for the year you have reference to covering the state? A. I could not answer.

Q. And you cannot in speaking from memory tell what the total amount of your business in the state was, I presume? A. The total business of the Kansas City general agency last year was \$643,000.00. But a part of that was in the state of Kansas.

Q. What part of that was in Kansas? A. Well, two-thirds of our total business is in Missouri, I would put it in that proportion.

Q. Well, what part of your total business is represented by wagons by your business on wagons, that is of the state? A. I should judge about eight to ten per cent.

Q. Eight or ten per cent. of your total business is represented by your total business in the state, by your wagon business? A. Yes, sir.

Q. How much did your wagon business amount to in the state of Missouri? A. Well, you understand, Mr. Revelle, how difficult it would be for me to answer this question and when the books cover both the sales for both Kansas and Missouri, the wagon sales in the Kansas City agency last year approximately was \$55,000.00, and the best estimate of that would be two-thirds in Missouri.

Q. Your books would not disclose what the total amount of business was in Missouri? A. Not without making up a statement, we do not make up a separate statement done in the two states.



Q. Will your books disclose to you the total amount of business done by you in your state, just by you, and your territory alone? A. No, sir; just in my territory alone.

Q. You have not had submitted to you the facts and figures showing what the total amount of business done by your company in this state is? A. I have not; no, sir.

Q. Now do you mean to be understood as saying that in 1903 or rather prior to 1903, that the McCormick Company fixed the price at which the machine was sold to the farmer and that price was adhered to to the dealers? A. Of course I don't know whether the price was adhered to or not, I had no connection with that company, my understanding was they had a list price from which they allowed the local dealer or agent a discount.

Q. The list price was made simply for affording a basis to determine the amount the agency was to receive? A. Yes, sir; that was issued as the best thing, that was used as a basis in the settlement. He was charged out with so many machines at the list price at which he would receive a credit of this amount of discount.

Q. But you as a harvester man know that it was not adhered to in 1900, 1901 and 1902, by the agents of the McCormick? A. I would not say that I saw in a general way that it was not adhered to.

Q. Don't you know that as a matter of fact? A. No, sir; I don't know what the McCormick people did, but in conferring with other men they told me a number of times that was the price they sold to the farmer, that is all I know about it.

Q. Now in identifying this contract that was offered in evidence you stated that was substantially the contract that was executed by the parties for a number of years prior to 1900, and for a number of years up to and prior to 1902? A. Yes, sir.

Q. You mean by that the net price mentioned in this contract was the net price in 1901 and 1902, and for some years prior to 1900? A. That particular contract is not in my territory, but we used in our territory for the Deering the same general form of contract which was in Kansas, I had no part of Missouri for the Deering people.

Q. Will you examine this contract and state if you mean to say that the part of this contract that is written in there with a pen is the same as is used in the contracts in 1901 and 1902, including the net price list? A. The writing is not the same, but the general form of this contract was the same one used by the Deering people in Kansas and Missouri. This is exceptional here, "f. o. b. Ferguson, Mo."

Q. Do you mean to say these prices mentioned in this contract were the prices mentioned in all the other contracts during the year 1901 and 1902? A. No, sir; because I made my prices f. o. b. Chicago, that is, f. o. b. Ferguson.

Q. What was the list price in 1901 and 1902? A. My impression was \$100.00 cash and \$105.00 on time, f. o. b. Chicago.

Q. For the six-foot? A. Yes, sir.

Q. Was that the price for 1902, \$100.00 cash? A. The prices have somewhat changed, it was either \$100.00 and \$105.00 or \$95.00 and



\$100.00, I am not sure about that particular year, that was covered by former testimony which I could tell by reference to it.

Q. Was it not \$95.00 cash and \$100.00 time in 1902? A. Yes, sir; in that year.

Q. The testimony I understood you to say was the same? A. I said that same general form of contract.

Q. Now what lines do you handle in Missouri as a regular line that is not manufactured by the International Harvester Company of New Jersey? A. Belle City threshers.

Q. Does the International Harvester Company of New Jersey manufacture any threshers at all? A. I think not, and we frequently handle outside goods in the way of dynamoes and cutting boxes, meal mills and kindred lines, belting, shafting, plows, etc.

Q. Who makes your contracts along that line if you know? A. The contract for the Belle thresher is made at the Chicago office.

Q. Is it not made through the International Harvester Company of New Jersey? A. I don't know.

Q. And is that not true of every line that you handle directly or incidentally? A. No, sir; it is not true, these other goods, dynamoes and other things we buy and handle any line we please.

Q. Who buys them? A. I do as general agent.

Q. You have no direction from the International Harvester Company of America or of New Jersey as to what companies you buy from or sell? A. No, sir; none whatever; I may sell a man a tractor or a traction gasoline engine amounting to a self-propelling one; I may go to any one of my competitors and get them to furnish the plow to go with it without consulting the Chicago office.

Q. You do not handle these lines, you simply handle them as an incident to your main business? A. We do not carry them in stock, we have the choice to buy from whom we want to.

Q. Do you carry them in stock at all? A. No, sir; sometimes we carry a sample of plows for exhibition.

Q. What is the last sample you carry now? A. The Parlin and Orendorff.

Q. Do you know where that plow is made? A. It is made by Parlin & Orendorff at Canton, Illinois, we get it from their Kansas City agency.

Q. How long has your company been handling these side lines? A. More or less for the last five or six years.

Q. What lines did you handle before 1907, except those you handle there and for the International Harvester Company of New Jersey?

A. Practically such as I stated except these Parlin & Orendorff plows, we have not been doing much in that line until the last couple of years.

Q. Well, the plow that you mentioned as having recently had a sample of, you say that plow was manufactured in Illinois? A. Yes, sir.

Q. That same company has a plant in Canada? A. I don't know.

Q. Don't you know what company controls the sales of that wagon in Canada, that plow I mean? A. No, sir; I do not.

Q. Don't you know as a matter of fact that complete output of that company is now controlled by the International Harvester Company of New Jersey? A. I do not. And I may add we have sold other people's power plows to go with our gasoline engines, one is the one made at Independence, Missouri, and also the Deere.

Q. Do you know who controls the output of the Deere Company, who handles it? A. There are two concerns, the Deere & Co. of Moline and Deere & Mansur. These outputs are sold by the branch houses.

Q. Which one is the successor of John Deere? A. Their branch house is incorporated under the name of the John Deere Plow Company at Kansas City and Omaha, and at Quincy, it is the John Deere Plow Company.

Q. You as agent of the International Harvester Company of America have received no notice of the connection of them with the International Harvester Company of America? A. No, sir.

Q. You received no notice of the connection of the Osborne Company with your company in 1903? A. No, sir.

Q. Or in the season of 1904? A. No, sir.

Q. That is also true of the Weber Wagon Company in 1904 and 1905? A. I would not say as to 1905, I am not clear when I received notice of the sale of the Weber wagons, but in 1904 and 1905, probably as late as in 1904.

Q. Did you make any report of any nature for the International Harvester Company of New Jersey? A. None.

Q. Do you have anything to do with the collection of notes and accounts of that company? A. No, sir.

Q. Did you during the season of 1903? A. No, sir.

Q. 1904? A. No, sir; none.

Q. What company occupied the quarters of the company you now occupy before 1902? A. The McCormick Harvesting Machine Company.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What was the price of the Weber wagon in 1904? A. The three-inch Weber wagon in 1904, my best recollection is, was \$58.00.

Q. Was that the price to the local dealer? A. To the agent; yes, sir.

Q. Was that the first year the International Harvester Company of America dealt in in that wagon? A. Yes, sir; as stated before, it was in 1904 or 1905.

Q. What is the price of that same wagon now to the dealer? A. That wagon is \$68.00 and some odd cents now.

Q. Have the International Harvester Company of New Jersey or the International Harvester Company of America any connection whatever directly or indirectly with these outside goods you have mentioned, that you buy and sell? A. None whatever.

## RE-CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. How do you know? A. Speaking from my knowledge and information.

Q. You simply have no notice yourself, but you don't know as a matter of fact that they have no connection with them? A. Certainly I don't know, I have no notice and knowledge of it, I cannot speak of anything I have no knowledge.

(Witness excused).

W. G. CHRISWELL, of lawful age, being duly sworn upon his oath, testifies as follows on behalf of the Respondent:

## DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. What is your name? A. W. G. Chriswell.

Q. Where do you live? A. I live at St. Joe, Missouri.

Q. How far is that from here? A. 220 miles.

Q. You are the general agent of the International Harvester Company of America at that place? A. I am.

Q. How long have you been there? A. Six years.

Q. What territory of Missouri do you have? A. I have twelve counties in the northwestern part of the state.

Q. Any part outside of Missouri? A. Yes, sir.

Q. What part? A. Part of Nebraska and Kansas, four counties in Kansas and two in Nebraska.

Q. Can you tell us how many binders of the Champion, McCormick, Deering, Milwaukee and Plano machines are in use by the farmers in your district in Missouri? A. In the neighborhood of 4,000.

Q. Can you tell how many mowers of the same brand? A. About 12,000, about three times the number of binders.

Q. Are you familiar with the agricultural tools and implement business in the state? A. In the western half, I am.

Q. Can you give us any estimate of the number of binders in use of these brands? A. I should think 35,000 to 40,000.

Q. Is that a mere guess? A. Well, my knowledge of the machines sold in Missouri before I went to St. Joe, I was in Kansas City, I handled the western half of Missouri for the Milwaukee Harvester Company and taking the average life of harvesters in consideration for the eastern half to hold good to the western half, I think that would be correct.

Q. How many mowers? A. I would say 65,000 to 70,000.

Q. Mr. Chriswell of your entire business in Missouri what proportion does your business in your binders bear or represent? A. About 20 to 25 per cent.

Q. Of your entire business, what proportion is represented by your business in mowers? A. About 18 per cent.

Q. Do you handle the Weber wagon? A. Yes, sir.

Q. Do you know what the price of it was in 1904? A. I think it was in the fall of 1904 that we was given the sale of the Weber wagon, the three-inch wagon as near as I can remember was \$59.25, in single lots f. o. b. St. Joe.

Q. In your territory? A. Yes, sir.

Q. What is the price of that wagon now? A. \$68.40.

Q. In your territory? A. Yes, sir.

Q. Was that the first year, 1904, they handled it? A. That was the first price we had, I would not be sure about the first year.

Q. Mr. Chriswell, I want to ask you of the entire business in agricultural implements, tools and machinery done in the state as far as you know in any of the lines which you represent, what proportion do you do? A. 20 per cent.

Q. What per cent of the entire business in agricultural tools and machinery done in the state of Missouri was done by the International Harvester Company of America? A. Some where in the neighborhood of 15 per cent., I should think.

Q. When you say you did 20 per cent. of the entire business in the lines you handle you mean the International Harvester Company of America does that in Missouri? A. Yes, sir.

Q. Can you give us any estimate as to the per cent. of repairs in your territory that are carried over from one year to another? A. That would run around 70 per cent., about 60 per cent.

Q. What per cent. of machines are carried over? A. Ten to fifteen per cent., I would think.

Q. What is the amount of money that is spent in St. Joe by the International Harvester Company of America for the salaries and upkeep of that agency? A. In the neighborhood of \$60,000 per year.

Q. What has been the average for the last few years? A. Then \$55,000 and \$60,000 a year for the past four or five years.

Q. Mr. Chriswell what is your judgment as to the course of prices in agricultural tools and machinery in Missouri from 1903 to 1909, outside of the harvester line? A. I think they have been upward.

Q. Can you give us any per cent. of the average increase? A. I think that wagons have been increased something in the neighborhood of 20 per cent., disc harrows have been increased five to ten per cent.

Q. Take them all as a class, agricultural tools, and implements and machinery outside of the harvester lines, what would you say was the average increase in price? A. Ten to twelve per cent.

Q. I hand you an exhibit which was introduced yesterday and which purports to give the names of the different concerns doing business in the several lines mentioned in Missouri today, and ask you to look at it and state whether you can identify it and whether you are familiar with it? Handing witness list set out on pages 1384 to 1397, inclusive? A. Yes, sir; I have looked this list over.

Q. You looked it over before you came here? A. Yes, sir.

Q. Does that represent, Mr. Chriswell, truly the names of the concerns and their locations who are handling, who are doing business in Missouri in the line of goods indicated in which they are severally

classed? A. In the majority of the cases some of these firms are located in St. Louis and do not reach our territory, and on the other hand there are some concerns in western Missouri that do business and are not on this list.

Q. Do these all do business in some part of Missouri? A. All of those names are familiar with me.

Q. Are all familiar to you under the heads they are classified, and are they all doing business in Missouri? A. Yes, sir.

# CROSS-EXAMINATION.

By Hon. Charles G. Revelle:

Q. With what did you compare that list before coming here?

A. I made a comparison from memory, merely from memory.

Q. You mean after you were called upon you could sit down and call the names and addresses of all of these competitors, giving the respective implements that they are handling? A. No, sir; I did not.

Q. What is the Sandwich Manufacturing Company manufacturing that competes with you? A. Corn huskers, side delivery rakes, hay loaders and hay presses.

Q. What does the S. L. Allen & Co. manufacture? A. I do not recall what they manufacture, I have indicated on that list the majority of goods, the ones that were selling goods in our territory.

Q. What is the David Bradley Manufacturing Company manufacturing and competing with you? A. They sell hay presses, they sell disc harrows.

Q. What else? A. Peg harrows.

Q. What else? A. Wagons, I believe they sell a wagon, I would not be sure about that.

Q. Anything else they manufacture that they come in competition with? A. I do not recall anything now, no doubt there is.

Q. What is the Thomas Manufacturing Company manufacturing? A. They manufacture rakes and also harrows, crown mower in our territory.

Hon. Theo. Brace, Commissioner:

Q. You mean lawn mowers? A. Crown mowers.

Q. How many of these mowers are in the state of Missouri? A. Years ago a large number of those mowers were sold in the country, I don't know of any great number that was sold by the Thomas Manufacturing Company in the last year or so, I know of one or two instances where they sold a mower to a dealer.

Q. That in your territory or the whole state? A. In my territory.

Q. How many Baker mowers were sold in your territory last year? A. Baker mowers?

Q. Yes, sir; did you ever hear of them? A. I am not sure who makes the crown mowers.

Q. I am speaking about the Baker mower? A. I don't know it by that name.

Q. Do you know of the M. M. Baker & Co., Peoria, Ill? A. No, sir.

Q. You don't know that company is a competitor of yours in the mower business? A. No, sir; I have indicated on there my initials "C."

Q. I am asking you the question now, how many Dain mowers were sold in your territory last year? A. Quite a number compared with what their trade has been, they have made an increase, I should think in our Missouri territory that they have sold from 100 to 150 in twelve counties.

Q. How many did you sell of yours in that same territory? A. In that same territory we sold about 800 or 900.

Q. How about the year before last on the Dain? A. I understood that the Dain, the traveler for the John Deere Plow Company who sells the Dain, claims he sold 135 mowers in practically the same territory we sold.

Q. Is that the character of the information you have been basing your testimony on, the claim of your competitors when it was reaching your ears? A. No, sir; I know one of our dealers sold twelve Dains, he told me so.

Q. That was last year? A. Yes, sir.

Q. How many Dains have you personal knowledge of having been sold in 1907? A. Not very many in 1907.

Q. A dozen? A. I think there would be fully a dozen.

Q. What mower does the Weber Implement Company handle? A. I do not think the Weber Implement Company sells any mowers in our part of the state.

Q. Is the Buckeye sold in your section? A. There is a mower called the Buckeye sold by the Parr Manufacturing Company of Kansas City, they call it the King Buckeye, I don't know where it is made.

Q. Do you know about the Weber Implement Company being a competitor of yours on mowers? A. No, sir.

Q. Do you know the Walter A. Wood mower being sold last year? A. No, sir; not last year.

Q. Was it sold this year? A. No, sir; the year before it was.

Q. Then you don't know of the Wood Company being a competitor of yours at this time? A. I know they carry a stock of goods at Kansas City, I don't know personally of any machines being sold last year.

Q. In that that is true of a good many companies you have listed as competitors, while their name may be on the list you don't know of them having sold any last year. A. It is true of some of them.

Q. Is it not true of a vast majority of them? A. No, sir; I do not think it is.

Q. You have no idea of the per cent. of business done by any of those so-called competitors on any of the different implements, have you? A. You take the John Deere Plow Company there, they do a very large business on a great number of implements.

Q. Well, have you any definite idea as to the per cent. of the total business done in this state they do on any particular implement?

A. You take the line of plows and disc harrows, I would think the John Deere Plow Company would do 15 to 20 per cent.

Q. In the state of Missouri? A. Yes, sir.

Q. What do you know about the character of the plows sold down in southeast Missouri? A. I don't know about southeast Missouri, I know about southwest Missouri.

Q. What do you know about the character of plows sold in this section here? A. I don't know I would think it would be like southwest Missouri, chill plows in a rocky country.

Q. In fact, most of your estimates have been based on such information as that, has it not? A. Well, as regards the John Deere Plow Company it is reported they are the largest plow company.

Q. Most of the estimates you have given here is information of business done by the International Harvester Company as based on the average of the conditions in your immediate territory without having any knowledge of the information in the state? A. The best estimate I could make.

Q. It is based on that character of information? A. Yes, sir.

Q. You have no idea as to the amount of business done by the International Harvester Company in Missouri last year in dollars and cents? A. No, sir; I could make an estimate that would be about——

Q. Have you made an estimate? A. No, sir; I have not, only on my own territory.

Q. Have you made an estimate of the amount of binder business that the company has done in this state heretofore? A. I know pretty well what the average of the number of binders of the company has been in the last six or seven years.

Q. Have you been since coming on this witness stand, have you made a general estimate of the amount of the cultivator business and binder business done by the International Harvester Company in this state during the last year? A. You mean as to the number of machines?

Q. Yes, sir; either in number of machines or represented by dollars and cents, have you made such an estimate? A. I would think it would run ——

Q. Have you heretofore made such an estimate? A. Not in total; no, sir.

Q. In fact, you have not made an estimate on any particular line of either in the entire state before coming on the witness stand, have you? A. No, sir; only in taking my own territory and applying the average per county.

Q. You know nothing about the number of binders or mowers sold by the Acme Company and the Standard Company, or any of these other mowers in this state? A. I know the Standard Company sells quite a number of mowers in our part of the state, and my part of the territory.

Q. Do you know anything about the number of binders and mowers they sell in this state; they sold in this state last year? A. No, sir.



Q. It is true of all the Companies selling binders and mowers in this State, is it not? A. I would think so.

Q. And that is true of the business of all of these Companies listed here as competitors on different implements, is it not? A. We have no way of knowing just what they have sold.

Q. Do you handle, in your territory, any goods not manufactured by the International Harvester Company of New Jersey? A. Yes, sir.

Q. Do you carry them as regular lines? A. We have dynamos in stock that I bought for the Company outside.

Q. How many of those do you carry in stock? A. At present we have two on hand.

Q. By whom were they made? A. Made by the Fort Wayne Electrical Company and the Coles Manufacturing Company at Troy, Ohio.

Q. What else? A. The Commercial Electrical Company goods of Indianapolis.

Q. What other lines do you handle in those not manufactured by the International Harvester Company of America? A. Handle a line ensilage and feed cutters.

Q. Do you carry them in stock? A. At the present we have sold all we had on hand.

Q. How many? A. At one time we had two on hand, quite large machines.

Q. What part of the business done in your territory through you is represented by business that you do for Companies other than the International Harvester Company of New Jersey? A. It would only be a small part, perhaps one-tenth of one per cent. I couldn't say as to the per cent.

Q. You handle as a mere side line, you handle them as an incidental line to your business? A. We sell gasoline engines and there is a demand for cutters and dynamos to go with them.

#### RE-DIRECT EXAMINATION.

By Hon. Selden P. Spencer:

Q. How do you indicate on this list of competitors the number of those that were actually doing business in your territory, by what mark?

A. By my initial "C."

Hon. Selden P. Spencer, counsel for Respondent:

On behalf of the Respondent, in connection with this witness' testimony and in connection with the list of competitors of the International Harvester Company of America, the initial "C" in that connection.

Hon. Theo. Brace, Commissioner:

The same will be considered offered in evidence.

See pages ———, marked with prefix "C."

#### RE-CROSS-EXAMINATION.

By Hon. Charles G. Revell:

Q. Are you prepared now to say that every Company beside the name of which you have marked the "C" as doing business this year in

your territory? A. I know they have the goods for sale, whether they have done any business I would not be sure about that.

Q. Did you not state that the Weber Wagon Company was not handling mowers, offering them for sale in your territory? A. The Weber Implement Company?

Q. Yes, sir? A. I know something of the Weber implement line; I have seen their goods exhibited at the State Fair. If I have marked there they are selling the mower in my territory, I did not intend to so indicate.

Q. That may be true of a number of these Companies, you have indicated by your "C." A. I hardly think so; it might be in a case or two.

Q. Well, is the Eagle Manufacturing Company at Kansas City doing any business in your territory? A. Yes, sir.

Q. Is the Eclipse Hay Press Company doing any business? A. Yes, sir.

Q. Is the Carr Tool Manufacturing Company? A. I would not be sure as to that. I know of the firm, whether they are selling any goods I would not be sure.

Q. Now, the first two companies I have mentioned have not indicated on this list as having done any business or being represented in your territory, is the Fleming & Sons Manufacturing Company doing business in your territory? A. Yes, sir; they are selling a line of sweep rakes and hay stackers.

Q. How about the Midland Manufacturing Company? A. Some of their factories is located at Tarkio, in our territory.

Q. How about the McCall Manufacturing Company, Macon, Mo.? A. I do not remember about them.

Q. Is the Fleming & Sons Manufacturing Company line handled? A. It is handled by the Parlin & Orendorff, as jobbers.

Q. Are you sure that Company is doing business in your territory? A. Yes, sir.

Q. How about the Thomas K. Barley Company? A. I don't know about them; I don't know them.

Q. How about the Appleton Manufacturing Company? A. They sell a line of saws. They do business in our territory.

Q. How about the Richardson Manufacturing Company? A. I don't know them.

Q. You don't know them? A. No, sir.

Q. You have that checked? A. That is what we call the manure spreader.

Q. Yes sir? A. That is called the Wooster Kemp, that is sold in our territory.

Q. The Appleton Company, I believe you say, is there? A. Yes, sir; I don't know as they sell any spreaders, for that reason they were not marked.

(Witness excused.)

Hon. Selden P. Spencer, counsel for Respondent:

On behalf of the Respondent, and in connection with the testimony of E. W. Mollenkamp, witness produced and sworn on behalf of the Re-

spondent, we desire to offer in evidence the Commission Agency Contract of the McCormick Harvesting Machine Company, made with E. W. Mollenkamp, agent, Higginsville, Missouri, for the year 1900, together with a price list of the McCormick machines for 1900. Said Commission Agency Contract, as offered and heretofore identified by said witness, E. W. Mollenkamp, is marked Exhibit No. —, by order of the Commissioner, Hon. Theodore Brace, and here appears in words and figures, as follows, to wit:

# PRICE LIST OF McCORMICK MACHINES FOR 1900.

## FOR YOUR INFORMATION ONLY.

Kansas City, Mo., Feb. 1, 1900.

E. W. Mollenkamp, Higginsville, Mo.:

Attach this to your duplicate of contract, you must have it at time of settlement.

### Name of Machine.

1900 harvester and binder, 5 ft...	\$140.00	} $1\frac{1}{2}$ cash Sept. 1, 1900. $1\frac{1}{2}$ cash Sept. 1, 1901, or three falls when absolutely necessary to close sale.
1900 harvester and binder, 6 ft...	140.00	
1900 harvester and binder, 7 ft...	143.00	
1900 New 4 mower, 4 $\frac{1}{2}$ ft.	\$48.00	} $1\frac{1}{2}$ cash Sept. 1, 1900. $1\frac{1}{2}$ cash Sept. 1, 1901. or settlement time.
1900 New 4 mower, 5 ft...	48.00	
1900 Big 4 mower, 6 ft....	53.00	
1900 Big 4 mower, 7 ft....	55.00	
1900 Little 4 mower, 3 $\frac{1}{2}$ ft.	46.00	
1900 Daisy Reaper, 5 ft...	73.00	

Transports, \$10.00 cash, at settlement.

Bundle carriers, \$8.00 cash, at settlement.

Flax attachment, \$5.00 cash, at settlement.

Reaping attachment, \$15.00 cash, at settlement.

Above price f. o. b. Chicago, and are subject to your commissions and discounts, as per contract.

We prefer to confine the sale of harvesters and binders to the same terms as mowers and reapers (two falls) and yet there are occasional sales that are desirable, and in some cases cannot be secured without longer terms of payment, and in order to place you in a position to accept of these sales we give you the privilege of selling on three falls, but hope you will only use these terms in extreme cases.

We will accept no past due notes at time of settlement. The selling agent must either cash the same or accept as part of his commission.

All notes to draw interest, as stipulated in the contract. You must not exceed the above limit of time without first getting written permission from this office; if you do, the notes will be refused at settlement and cash demanded. Take notes only on our blanks—have them filled out and signed in ink, and have every space in same properly filled out. Do not make any erasures of dates or put one figure over another. When customers make their mark, be sure to have same duly witnessed. Storage clause in contract should be better understood, for it will be en-

forced. You must not under any circumstances advance money to anyone on our account. If you do, it will be at your own risk, as it will not be made good to you by us. We keep our men supplied with money—it will be their fault should they run short. Our canvassers or travelers have no authority to change prices and terms of sales, consequently, at settlement time we shall consider their acts, so far as matters affecting your contract with us are concerned, as having been done by your direction and approval. Any promise or statements made will not be recognized unless duly approved in writing by this office. Sell only to good and responsible parties, or if not responsible within themselves, get abundant security, either by way of a signer or mortgage security, which will make the claim collectible. If you fail to do this you must assume all such, per your contract. Notes will be investigated and scrutinized more closely than they have in the past.

Assuring you that we are always most willing to interest ourselves in your behalf with help and information when needed, and asking you to keep us fully posted as to the crop and trade outlook, and feeling confident you will give us your most earnest efforts at all times, I am,

Very respectfully yours,

WM. BROWNING,

General Agent McCormick H. M. Co.

First party agrees to allow second party a carrier and truck free with each H. & B. sold during the season of 1900 where the same are furnished purchasers of H. & B.'s free, but in no case will first party make any allowances in dollars and cents where no carriers or trucks are furnished.

#### NET COST PRICES AND TERMS TO AGENTS ON CORN BINDERS AND SHREDDERS. F. O. B., CHICAGO.

Corn binder complete, which includes carrier, cash Nov. 1st, 1900 .....		\$165 00
One-half Nov. 1st, 1900, one-half Nov. 1st, 1901.....		110 00
(Extra bundle carriers \$5.00 net each.)		
Corn huskers and shredder, with truck, cash December or January 1st, next .....		165 00
One-half January 1st, 1901, and one-half January 1st, 1902...		175 00

Minimum Retail price list to agents will be furnished on another sheet. The above letter will enable you to figure out what the goods cost you.

N. B.—Please acknowledge receipt of this price list and instructions on enclosed self-addressed postal card.

W. B.

#### COMMISSION AGENCY CONTRACT.

The McCormick Harvesting Machine Company, a duly organized Corporation of the State of Illinois, doing business in the city of Chicago, in said State, party of the first part, and E. W. Mollenkamp, of Higginsville, in the county of Lafayette, and State of Missouri, party

of the second part, agree and contract this 29th day of November, 1899, as follows, to wit:

Said Company hereby appoint said E. W. Mollenkamp as their sales agent under the limitations and restrictions hereinafter specified, for the sale of their harvesting machines, twine, binder trucks, bundle carriers, flax dumps and repairs, in the following described territory, to wit: Higginsville, Missouri, and vicinity of trade, during the season of 1900, and said agent, agree as follows:

1st. To do all the business pertaining to selling the above-named machines, twine, binder trucks, bundle carriers, flax dumps and repairs, to receive all goods shipped to him under this agreement, to pay freight on them from Chicago, and to keep them well housed and in good order during the entire season or until sold or re-shipped, free of taxes and all charges to said Company, and to be governed by the printed instructions on the back of this contract, and the instructions of the McCormick Harvesting Machine Company, and their general agent.

2nd. To collect from the purchaser the freight on all goods sold, or assume loss on same.

3rd. In no case to charge the said Company with any sum or sums for freight, handling, re-shipping, storage or other expenses, except by a special agreement, in writing, with said Company, or their authorized general agent, and to send promptly at time of shipment to W. Browning, General Agent at Kansas City, Mo., a duplicate shipping receipt for each shipment made.

4th. To deliver, set up and fairly start every machine sold, and to instruct the purchaser how to adjust it to work in different kinds and conditions of grain or grass, to thoroughly and vigorously canvass the above named territory for the sale of said machines, and to sell to good and responsible men only; to pay all expenses that may be incurred by experts or canvassers while assisting said agent, in case the McCormick Harvesting Machine Company furnish said agent with any expert or canvassing help during the season.

5th. To draw all notes taken on sale of said machines, twine, binder trucks and bundle carriers, payable to the order of the McCormick Harvesting Machine Company upon blanks furnished for that purpose, and bearing not less than six per cent interest per annum from date until due, and eight per cent per annum after maturity until paid.

6th. To sell all machines, twine, binder trucks, bundle carriers, flax dumps and repairs for such prices and on such terms only as shall be prescribed by the said company, or their general agent, in the territory above mentioned, and in case machines, twine, binder trucks, bundle carriers, flax dumps or repairs are sold at less price or on different terms than so prescribed (except under written instructions from said company or said general agent), the loss in price shall be assumed by the said agent and deducted from his commission and the notes taken on other time than that prescribed shall also be taken by the said agent in payment of his commission.

7th. To settle for machines sold, either by cash or note, at the time of delivery, and in no case to warrant machines other than as specified in the regular warranty furnished by said company; and if said

agent shall deliver any machine for use in the field or permit the use of a machine, before it is fully settled for by cash or note, said agent will account and pay to the said company on demand, full price of said machine, together with interest from July first next and waive all claims under the warranty, and further agree to pay said first party for any costs or expenses incurred on said machine.

8th. To furnish the said McCormick Harvesting Machine Company or their general agent, as soon as called upon after harvest, a full and detailed account of sales on such blank forms as shall be furnished for that purpose, and to be prepared for a full and complete settlement at any time thereafter.

9th. To order all twine, binder trucks, bundle carriers, flax dumps and repairs, which may be needed for McCormick machines, from them, or their authorized general agent, and provide suitable storage for the same, and to sell for cash only, and remit the proceeds promptly to the McCormick Harvesting Machine Company, or their general agent, to handle no twine, binder trucks, bundle carriers, flax dumps or repairs obtained from any other source, without permission in writing, under penalty of forfeiture of all commission earned under this clause of this contract.

For all of which said McCormick Harvesting Machine Company agree to pay said agent a selling commission of 25 per cent on all cash received on sale of said machines and 25 per cent upon all notes taken on sales of said machines to good responsible parties, but in no case shall commissions be paid to said agent on bad or doubtful notes or accounts; said commissions to be reckoned on the prices of machines as may hereafter be fixed by the McCormick Harvesting Machine Company or their general agent, commissions shall only be paid on machines sold and settled for, and none shall be paid on machines returned condemned, or on orders that are not filled; commissions to be due and payable at the time account sales is rendered and settlement made, or at any time within six months thereafter, at the option of said company, or their authorized general agent, and in case sales are made to parties who are discovered and adjudged by the said company, or their authorized general agent, to have been doubtful or worthless at the time of sale, the notes taken for such sales shall be received by said agent to apply on payment of his commissions due upon sales recognized and approved by said company.

And it is further agreed, in case the said McCormick Harvesting Machine Company or their authorized general agent, find that any note taken and passed upon at settlement was doubtful or worthless at the time of sale, then the said agent shall take the said note and replace it with cash or notes, secured by good and responsible parties that shall be acceptable to said company, or their general agent.

The price of twine shall be (see order) cents per pound, delivered on board cars in Chicago, and the McCormick Harvesting Machine Company agree to pay said agents selling commissions as follows, (see order) cents per pound on all twine sold; and on repairs 25 per cent from the retail price contained in the company's published price list of repairs for 1900, the price of binder trucks shall be list; the price of



bundle carriers shall be list, and the price of flax dumps shall be list, on board cars at Chicago, and the McCormick Harvesting Machine Company agree to pay said agent a selling commission of 33 1-3 per cent upon the above retail price. It is further agreed and understood that the said agent will at time of settlement pay for all binder trucks, bundle carriers and flax dumps ordered by him, whether they shall have been sold or not. No freight on twine left over to be refunded and no partly used bales of twine to be taken on account of settlement.

In case the said agent desire to purchase all the twine that may be obtained of the said company during the season of 1900, including all, if any, carried over from the previous season, and so state to the general agent at the time of ordering, and shall pay for all the said twine in cash on or before the first day of (see order) next, a commission of (see order) per cent shall be allowed on twine in lieu of (see order) cents per pound as provided for above.

A discount of five (5) per cent will be made on all cash paid on machine sales that is received by the McCormick Harvesting Machine Company or their general agent, on or before September 1, 1900. This discount applies only to cash payments on machine sales, and not on twine, binder trucks, bundle carriers, flax dumps or repairs.

It is distinctly understood and agreed that the said party of the second part is to receive, in the capacity of agent of the party of the first part, and not otherwise, all moneys, notes, property or other securities given or taken in payment for machines, or for twine, binder trucks, bundle carriers, flax dumps, repairs or other property sold by him for said company; and said agent further agree not to retain, on account of commissions or other claims against the said McCormick Harvesting Machine Company, any money, notes, or other property received from sales of machines, twine, binder trucks, bundle carriers, flax dumps, repairs or any other property or collections on notes or accounts, but to promptly remit all moneys, notes or other property to said company, or their authorized general agent, leaving the commissions or any other claims to be determined and paid at settlement.

The said party of the second part agree to sell and deliver all the machines set up and used as samples, or pay for same, if so demanded by the party of the first part at the time of settlement, and in no event is the party of the second part to re-ship a sample machine to any other agency.

To take any part or parcel off a machine to supply customers with repairs is strictly forbidden, and any machine thus robbed and on hand at close of the season shall be settled and paid for by the party of the second part, same as if sold.

It is further mutually agreed that the said McCormick Harvesting Machine Company shall at all times have exclusive and entire control over all orders, contracts, accounts, notes, moneys and assets or other property accruing and growing out of the sale of said machines, twine, binder trucks, bundle carriers, flax dumps, repairs or other property, whether for this or previous years, and may at any time annul and determine this and all prior contracts and take possession of



all orders, notes, accounts, moneys, machines, twine, binder trucks, bundle carriers, flax dumps, repairs and any other property in the hands of said E. W. Mollenkamp by virtue thereof.

Said McCormick Harvesting Machine Company agree to use their best efforts to complete and ship all machines ordered and to supply all twine and repairs ordered, so long as their stock shall last, but shall not be held responsible to said agent for any damages in case the demand for either the machines, twine and repairs shall exceed the supply, whether growing out of interruptions by fire or other elements, riot, labor disturbances, or any other case whatsoever.

Said agent especially agree not to accept an agency for or be interested in the sale of any other harvester or binder, reaping or mowing machine, directly or indirectly, while acting as agent for the McCormick Harvesting Machine Company under this contract.

It is further agreed that this contract cannot be changed in any of its provisions, in any manner, without the written approval of the McCormick Harvesting Machine Company or their general agent. This contract is executed in duplicate, Wm. Browning, General Agent, McCormick Harvesting Machine Company.

WM. BROWNING, (SEAL.)

E. W. MOLLENKAMP, (SEAL.)

Don't sign this contract before reading the exclusive clause, as it will be strictly enforced on both binders and mowers for season, 1900.

WM. BROWNING.

The following instructions are printed on the back of said contract:

1st. We furnish you a reasonable amount of printed matter free of charge, delivered at the express office at Kansas City, Mo.; you to pay express charges on the same. We will not pay for newspapers or other advertisements unauthorized by us, neither will we pay for any printing of any kind whatever except that furnished by us from our office.

2nd. We will not pay any charges for telegraphing, except for answers to messages sent by us, or unless it be in reference to parts short on machines shipped by us, or a similar case in which we are entirely at fault; and in such cases dispatches may be sent to us C. O. D., but in all other cases parties must pay charges on their messages.

3rd. You must give every purchaser one of our printed warranties with each machine you sell, which will be a sufficient guarantee that the machine will work as represented, but if you fail to give the purchaser our printed warranty, showing just what the machine is warranted to do, you thereby forfeit our warranty to you.

4th. Should there be any field trial of machines in your territory, it is optional with you whether you exhibit our machine at said trial or not, but if you will notify us in time we will try and be present at said trial, but should you go into the trial it will be on your own account and at your own expense.

5th. Should any part of machines prove defective from flaws, poor material, or from bad workmanship, said defective parts may be charged back to us, but in all such cases the broken or defective parts

must be exhibited at settlement to the authorized agent of said company, a complete list of all parts given free must be kept on blanks furnished by us for the purpose; this list at settlement to be subject to the approval of the authorized general agent of said company, and only such parts will be allowed as are approved.

6th. Not to sell, or offer for sale, directly or indirectly, any McCormick machines to parties outside of the above named territory, or sell any machines to parties living in any other than the above named territory, except to legitimate retail trade, and then only at the regular retail prices, under penalty of forfeiture of all commissions to the agent in whose territory the purchasers reside, but in no case is the McCormick Harvesting Machine Company to be held liable for any trespass committed by one agent upon the rights of another, except as the said company at their option, may first collect the same from such other agent.

7th. To sell all extras called for at current list prices, and for cash only, and in no case to charge the purchaser more than the list price, unless the part or parts are ordered by express especially for him.

8th. To not manufacture or purchase, keep in stock or offer for sale, knives, sickles, sections, or other parts manufactured and furnished for the McCormick machines by any other party than the said company.

#### McCORMICK HARVESTING MACHINE COMPANY.

At this point the respondent by its counsel informed the commissioner, the Honorable Theodore Brace, that they had no further testimony to offer in the above entitled cause, and that they now announced that they rested their case and the taking of testimony on behalf of the respondent was closed.

At this point Hon. Selden P. Spencer produced for Hon. Elliott W. Major, Attorney-General of the State of Missouri, certain exhibits which had been previously called for by the Attorney-General on behalf of the informant. Said papers as heretofore asked for and as produced by the counsel for the respondent here appear in the said record as offered at the time of the request for the same.

Hon. E. W. Major, Attorney-General:

We desire to here insert in the above record on behalf of the informant the certified copy of the annual report and anti-trust affidavit of the D. M. Osborne & Co., made by said company for the years 1903 and 1904, and filed with the Secretary of State of Missouri. Said annual report and anti-trust affidavit here appears in words and figures as follows, to-wit:

#### STATE OF MISSOURI.

#### DEPARTMENT OF STATE.

To All to Whom These Presents Shall Come:

I, Cornelius Roach, Secretary of State of the State of Missouri, and keeper of the Great Seal thereof, hereby certify that the annexed pages contain a full, true and complete copy of Annual Report and Anti-Trust Affidavit of D. M. Osborne & Co. for 1903 and 1904, as the same appears on file in this office.

In testimony whereof, I hereunto set my hand and affix the Great Seal of the State of Missouri, done at the City of Jefferson, this second day of December, A. D. nineteen hundred and nine.

CORNELIUS ROACH,

Secretary of State.

FRED G. PARK,

Chief Clerk.

### AFFIDAVIT.

State of New York, }  
County of Cayuga, } ss.

I, Edwin D. Metcalf, do solemnly swear that I am the general manager and vice-president of the corporation known and styled D. M. Osborne & Co., duly incorporated under the laws of the State of New York on the twenty-ninth day of April, 1875, and now transacting or conducting business in the State of Missouri, and that I am duly authorized to represent said corporation in the making of this affidavit.

And I do further solemnly swear that the said D. M. Osborne & Co., known and styled as aforesaid, has not, since the 20th day of June, 1897, created, entered into or become a member or a party to, and was not, on the 20th day of June, 1897, nor at any day since that date, and is not now, a member of or a party to any pool, trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual, or any other person or association of persons, to regulate or fix the price of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, and that it has not entered into or become a member of a party to any pool, trust, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, and that it has not issued and does not own any trust certificates, and for any corporation, agent, officer or employe, or for the directors or stockholders of any corporation, has not entered into and is not now in any combination, contract or agreement with any person or persons, corporation or corporations, or with any stockholder or director thereof, the purpose and effect of which said combination, contract or agreement would be to place the management or control of such combination or combinations, or the manufactured product thereof, in the hands of any trustee or trustees with the intent to limit or fix the prices or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any article; and that it has not made or entered into any arrangement, contract or agreement with any person, association of persons or corporation designed to lessen, or which tends to lessen, full and free competition in the importation, manufacture or

sale of any article, product or commodity in this state, or under the terms of which it is proposed, stipulated, provided, agreed or understood that any particular or specified article, product or commodity shall be dealt in, sold or offered for sale in this state to the exclusion, in whole or in part, of any competing article, product or commodity.

Subscribed and sworn to before me, a Notary Public, within and for the County of Cayuga, this eighteenth day of August, 1903.

EDWIN D. METCALF,

Vice-President and General Manager.

#### ANNUAL REPORT OF CORPORATIONS.

(Required by Article I, Chapter 12, R. S., 1899).

This report should be filed on or immediately after July 1st.

To the Secretary of State of the State of Missouri:

In compliance with the provisions of Section 1014, Article I, Chapter 12, Revised Statutes, 1899, I make report as follows:

Name of corporation, D. M. Osborne & Co., Auburn, N. Y. and St. Louis, Mo.

Location of principal office, factory or plant in this state—Branch office at St. Louis, Mo.

Name of the principal officer in this state—F. P. Carnochan, manager of St. Louis branch.

Cash value of all personal property in this state, June 1, 1903—\$7,000.00.

Cash value of all real estate in this state, June 1, 1903—\$25,900.00.

Amount of city taxes paid in this state for the year last preceding this report—\$40.00.

Amount of county taxes paid in this state for the year last preceding this report ———

Amount of state taxes including school tax paid in this state for the year last preceding this report—\$130.00.

State of Missouri, }

City of St. Louis, } ss.

I, M. H. Gibbs, Assistant Manager of said corporation, do solemnly swear that the above statement is true to the best of my knowledge and belief.

M. H. GIBBS,

Assistant Manager.

Subscribed and sworn to before me this 25th day of July, A. D. nineteen hundred and three.

Witness my hand and notarial seal the date last aforesaid.

(Commissioned and qualified for a term expiring December 10, 1906).

C. H. HUDSON,

Notary Public.

(SEAL).

City of St. Louis, Mo., filed July 27, 1903.

SAM B. COOK,

Secretary of State.

## AFFIDAVIT.

State of New York, }  
 County of Cayuga, } ss.

I, Edwin D. Metcalf, do solemnly swear that I am the vice-president and general manager of the corporation known and styled D. M. Osborne & Co., of Auburn, New York, duly incorporated under the laws of the State of New York, on the 29th day of April, 1875, and now transacting or conducting business in the State of Missouri, and that I am duly authorized to represent said corporation in the making of this affidavit. And I do further solemnly swear that the said corporation known and styled as aforesaid, has not, since the 20th day of June, 1897, created, entered into or become a member of or a party to, and was not, on the 20th day of June, 1897, nor at any day since that date, and is not now, a member of or a party to any pool, trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual, or any other person or association of persons, to regulate or fix the price of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, and that it has not entered into or become a member of a party to any pool, trust, agreement, contract, combination or confederation to fix or limit the amount or quantity of any article of manufacture, mechanism, merchandise, commodity convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, and that it has not issued and does not own any trust certificates, and for any corporation, agent, officer or employe, or for the directors or stockholders of any corporation, has not entered into and is not now in any combination, contract or agreement with any person or persons, corporation or corporations, or with any stockholder or director, thereof, the purpose and effect of which said combination, contract or agreement would be to place the management or control of such combination, or combinations, or the manufactured product thereof, in the hands of any trustee or trustees with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any article; and that it has not made or entered into any arrangement, contract or agreement with any person, association of persons or corporation designed to lessen, or which tends to lessen, full and free competition in the importation, manufacture or sale of any article, product or commodity in this state, or under the terms of which it is proposed, stipulated, provided, agreed or understood that any particular or specified article, product or commodity shall be dealt in, sold or offered for sale in this state to

the exclusion, in whole or in part, of any competing article, product or commodity.

EDWIN D. METCALF,

General Manager.

Subscribed and sworn to before me a Notary Public within and for the County of Cayuga, State of New York, this 23rd day of July, 1904.

WILLIAM H. HARRIS,

Notary Public.

(SEAL).

My commission expires March 30, 1905.

### ANNUAL REPORT OF CORPORATIONS.

(Required by Article I, Chapter 12, R. S., 1899).

This report should be filed on or immediately after July 1st.

To the Secretary of State of the State of Missouri:

In compliance with the provisions of Section 1014, Article I, Chapter 12, Revised Statutes, 1899, I make report as follows:

Name of corporation—D. M. Osborne & Co., Auburn, N. Y. and St. Louis, Mo.

Location of principal office, factory or plant in this state—Branch office at St. Louis, Mo.

Name of the principal officer in this state—F. P. Carnochon, manager, St. Louis, Mo.

Cash value of all personal property in this state, June 1, 1904—\$20,000.00.

Cash value of all real estate in this state, June 1, 1904—\$25,900.00.

Amount of city taxes paid in this state for the year last preceding this report, \$40.00.

Amount of county taxes paid in this state for the year last preceding this report ———

Amount of state taxes paid in this state for the year last preceding this report, including school tax—\$130.50.

State of Missouri,	} ss.
City of St. Louis,	

I, F. P. Carnochon, Manager, of said corporation, do solemnly swear that the above statement is true to the best of my knowledge and belief.

F. P. CARNOCHON,

Manager.

Subscribed and sworn to before me, this 15th day of July, A. D., nineteen hundred and four.

Witness my hand and notarial seal the date last aforesaid. (Commissioned and qualified for a term expiring December 10, 1906).

C. H. HUDSON,

Notary Public.

(SEAL).



City of St. Louis, Mo., filed July 28, 1904.

SAM B. COOK,

Secretary of State.

Hon. Elliott W. Major, Counsel for Informant, and Attorney-General of the State of Missouri, offers on behalf of the state and inserts in the record of the above cause at this time, the same having been requested heretofore and produced at this time by the counsel for the respondent, a certified copy of the deed or instrument of writing dated the 3rd day of January, 1905, by and between D. M. Osborne & Company, a corporation of the State of New York, and the International Harvester Company of New Jersey, a corporation of New Jersey, conveying certain property by the said D. M. Osborne Company to said International Harvester Company of New Jersey, said deed being marked exhibit No.——, and the same is here offered and appears in evidence in the words and figures as follows on behalf of the informant:

#### OFFICE OF RECORDER OF DEEDS.

City of St. Louis, Mo.

Chas. F. Joy, Recorder.

This indenture made on the third day of January, A. D., 1905, by and between D. M. Osborne & Company, a corporation, of the State of New York, party of the first part, and International Harvester Company, a corporation, of the State of New Jersey, party of the second part.

Witnesseth: That the said party of the first part for and in consideration of the sum of one dollar and other valuable considerations to it paid by the said party of the second part, the receipt of which is hereby acknowledged, does, by these presents, grant, bargain, and sell, convey and confirm unto the said party of the second part, its successors and assigns, the following described lots, tracts or parcels of land lying, being and situate in the City of St. Louis and State of Missouri, to-wit: All that lot or parcel of ground with the appurtenances and improvements thereon, being in block No. 2272 of the said City of St. Louis, and having a frontage of one hundred sixty-nine (169) feet more or less on the north line of Gratiot street in said City of St. Louis, and extending northwardly between parallel lines to the south line of property belonging to the Missouri Pacific Railway Company, said property herein conveyed being bounded as follows: On the south by Gratiot street, on the east by 22nd street, on the north by said Missouri Pacific Railway Company property and on the west by said railway property, it being the intention hereof to convey all the property acquired by said party of the first part under and by virtue of the following conveyances, duly recorded with the Register of Deeds for said City of St. Louis in the State of Missouri, and recorded in Book 751, page 13, Book 749, page 43, Book 744, page 539; Book 762, page 470; Book 748, page 229; Book 746, page 356; Book 758, page 20; Book 758, page 21; and Book 758, page 22. To Have and to Hold the premises aforesaid with all and singular, the rights, privileges appurtenances and immunities thereto belonging or in any wise appertaining unto the said party of the second part and unto its successors and assigns for-



ever; the said D. M. Osborne & Company hereby covenanting that it is lawfully seized of an indefeasible estate in fee in the premises herein conveyed; that it has good right to convey the same; that the said premises are free and clear of any incumbrances done or suffered by it or those under whom it claims; and that it will warrant and defend the title to the said premises unto the said party of the second part and unto its successors and assigns forever against the lawful claims and demands of all persons whomsoever.

In Witness Whereof, the said party of the first part has caused these presents to be signed by its president and attested by its secretary, and its corporate seal to be hereunto affixed the day and year first above written.

D. M. OSBORNE & CO.

( D. M. Osborne & Co., )  
( Auburn, N. Y. Right )  
( on April 29, 1875. )

By Thomas M. Osborne, Its President.  
Attest:  
John H. Osborne, Secretary.

State of New York, }  
County of Cayuga, } ss.

On this 14th day of May, 1907, before me appeared Thomas M. Osborne, to me personally known, who, being by me duly sworn, did say that he is president of D. M. Osborne & Company, a corporation of the State of New York, and that the seal affixed to the above instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Trustees; and said Thomas M. Osborne acknowledged said instrument to be his free and voluntary act and the free act and deed of said corporation. In testimony whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

My term expires March 30, 1909.

C. E. RACE,

Notary Public in and for the State of New York, County of Cayuga, and City of Auburn.

(C. E. Race, Notary Public, Cayuga Co., Auburn, N. Y.)

Filed and recorded May 22, 1907, at 3:48 p. m.

CHAS. F. JOY,  
Recorder.

State of Missouri, }  
City of St. Louis, } ss.

I, the undersigned Recorder of Deeds for said city and state, do hereby certify the foregoing to be a true copy of an instrument of writing executed by D. M. Osborne & Company to International Harvester Company, together with the acknowledgment and date of filing and recording thereof, as the same remains of record in my office in Book 2022, page 53.

Witness my hand and official seal this 22nd day of December, 1907.

CHAS. F. JOY,  
Recorder.

(SEAL).

Hon. E. W. Major, Attorney-General, for the State of Missouri, and Counsel for the Informant, at this time offers in evidence and inserts into the records of the above cause at this time the certified copy of the deed dated the 4th day of January, 1905, recorded in Book 222, page 54, office of the Recorder of Deeds, of the City of St. Louis, Missouri, by and between the International Harvester Company, a corporation of the State of New Jersey, and the International Harvester Company of America, a corporation of the State of Wisconsin, conveying certain property in the State of Missouri, in the City of St. Louis, Missouri. Said deed is inserted at this time and offered in connection with the testimony of the Informant, said paper being at this time marked exhibit No.—— the same having been produced at this time by Hon. Selden P. Spencer, Counsel for the Respondent, at the request of the Attorney-General, Counsel for Informant.

Said deed here appears in words and figures as follows, to-wit:

#### OFFICE OF RECORDER OF DEEDS.

City of St. Louis, Mo.

Chas. F. Joy, Recorder.

This Indenture, Made on the fourth day of January, A. D., 1905, by and between International Harvester Company, a corporation of the State of New Jersey, party of the first part, and International Harvester Company of America, a corporation, of the State of Wisconsin, party of the second part, Witnesseth:

That the said party of the first part, for and in consideration of the sum of one dollar and other valuable considerations to it paid by the said party of the second part, the receipt whereof is hereby acknowledged, does by these presents grant, bargain, and sell, convey and confirm unto the said party of the second part, its successors and assigns the following described lots, tracts or parcels of land lying, being and situate in the City of St. Louis, and State of Missouri to-wit: All of that lot or parcel of ground with the appurtenances and improvements thereon being in block No. 2272 of the said City of St. Louis and having a frontage of one hundred sixty-nine (169) feet more or less on the north line of Gratiot street in said City of St. Louis and extending northwardly between parallel lines to the south line of property belonging to the Missouri Pacific Railway Company, said property herein conveyed being bounded as follows: On the south by Gratiot street, on the east by 22nd street, on the north by said Missouri Pacific Railway Company property, and on the west by said railway property, being the same property conveyed to said first party by D. M. Osborne & Company by deed dated January 3, 1905. To have and to hold the premises aforesaid with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in any wise appertaining unto the said party of the second part and unto its successors and assigns forever; the said International Harvester Company hereby covenanting that it is lawfully seized of the indefeasible estate in fee in the premises herein conveyed, that it has good right to convey the same; that the said premises are free and clear of any incumbrances done or

suffered by it or those under whom it claims; and that it will warrant and defend the title to the said premises unto the said party of the second part, its successors and assigns forever against the lawful claims and demands of all persons whomsoever. In witness whereof the said party of the first part has caused these presents to be signed by its president and attested by its assistant secretary, and its corporate seal to be hereunto affixed the day and year first above written.

INTERNATIONAL HARVESTER COMPANY,

By Cyrus H. McCormick, Its President,

Attest: M. M. Sale, Assistant Secretary.

(SEAL).

State of Illinois,     }  
County of Cook,     } ss.

On this 17th day of May, 1907, before me appeared Cyrus M. McCormick, to me personally known, who, being by me duly sworn, did say that he is the president of the International Harvester Company, a corporation of the State of New Jersey, and that the seal affixed to the above instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Cyrus H. McCormick acknowledged said instrument to be his free and voluntary act and deed, and the free act and deed of said corporation. In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written. My commission as Notary Public expires the 3rd day of March, 1908.

JOHN LEWSON,

Notary Public.

(SEAL).

In and for the County of Cook, and State of Illinois.

State of Illinois,     }  
County of Cook,     } ss.

I, Joseph F. Haas, County Clerk, of the County of Cook, do hereby certify that I am the lawful custodian of the official record of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that John Lewson, whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment a Notary Public, in and for Cook county, duly commissioned, sworn, and acting as such and authorized to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths, all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to said proof of acknowledgment is genuine; and further that the annexed instrument is executed and acknowledged according to the laws of the State of Illinois. In testimony whereof, I have hereunto set my hand and

affixed the seal of the County of Cook at my office in the City of Chicago, in said county, this 17th day of May, 1907.

(SEAL).

JOSEPH F. HAAS,

County Clerk.

Filed and recorded May 22, 1907, at 3:49 p. m.

CHAS. F. JOY

Recorder.

State of Missouri, }  
                              } ss.  
City of St. Louis. }

I, the undersigned Recorder of Deeds for said city and state, do hereby certify the foregoing to be a true copy of an instrument of writing executed by International Harvester Company to International Harvester Company of America, together with the acknowledgment and date of filing and recording thereof, as the same remains of record in my office in Book 2022, page 54.

Witness my hand and official seal this 22nd day of December, A. D., 1909.

CHAS. F. JOY,

(SEAL).

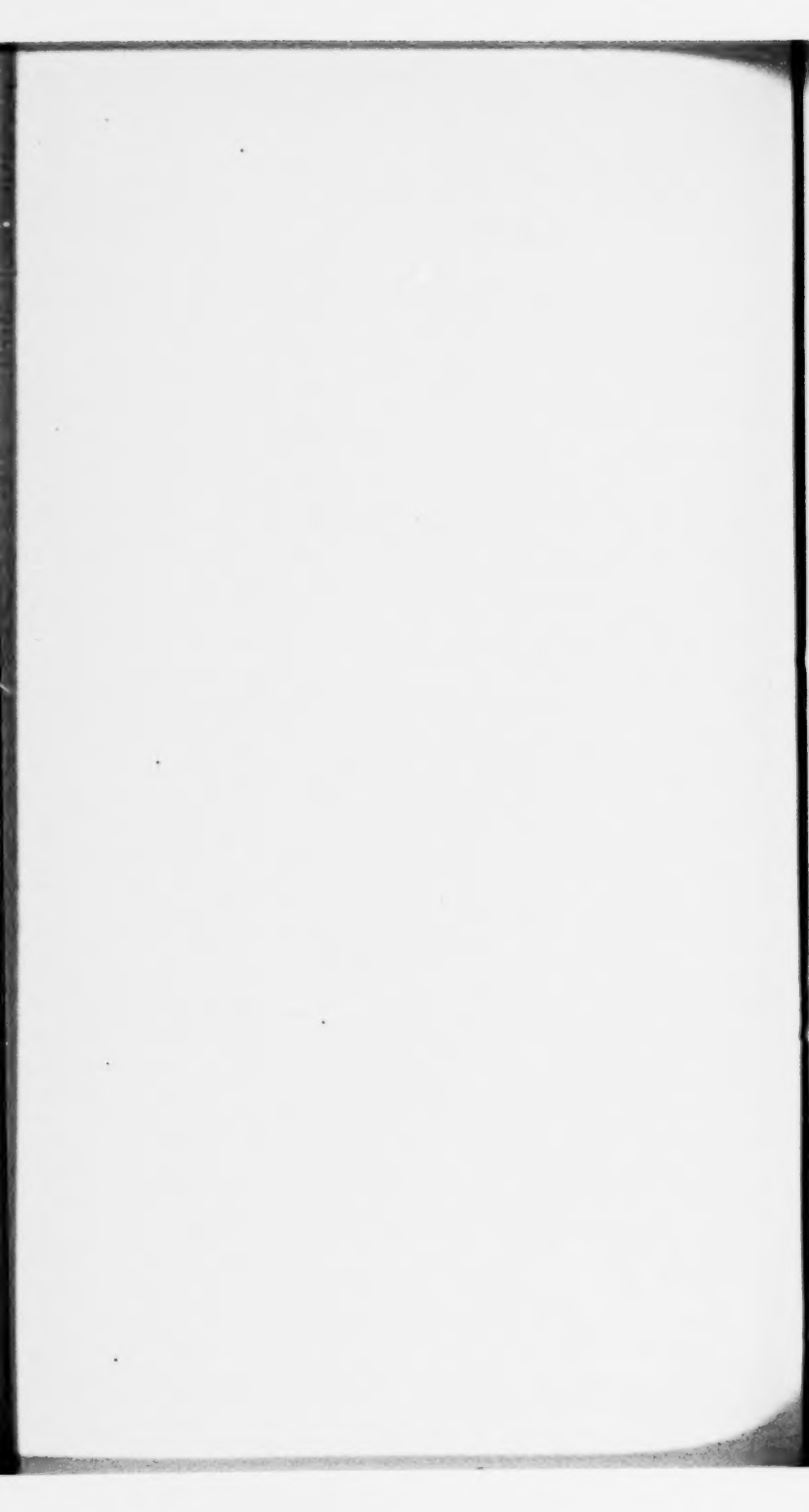
Recorder.

At this point Hon. E. W. Major, Counsel for the Informant, and Attorney-General of the State of Missouri, informed the Honorable Theodore Brace, Commissioner, in the above entitled cause, that the Informant had no further testimony to offer and that the Informant at this time rested its case, and that no further testimony would be offered.

Hon. Theodore Brace, Commissioner :

Gentlemen, I now adjourn the further taking or hearing of testimony in the above entitled cause finally, and understand that the case is closed so far as offering further evidence is concerned.

The cause to be submitted on briefs and printed argument, to be filed with the commissioner pursuant to and within the time prescribed by the rules of the Supreme Court, governing such matters.



## **REPORT OF THE COMMISSIONER.**

(Filed September 6, 1910.)

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The undersigned Theodore Brace appointed by The Supreme Court, Special Commissioner to take the testimony upon the issues joined in the above entitled cause and to report the same with his finding of facts thereon, together with his findings as to the law upon the issues tendered and to state his conclusions of law in his final report; having taken all the evidence offered by the parties; begs leave to report the same as it appears on the 1,570 pages of the typewritten transcript thereof and also in the printed volume of 819 pages; herewith filed, in which also appears all his proceedings in the taking thereof, and submits the following as his finding of facts and law; and his conclusions of law upon the issues joined, thereon—

### **Finding of Facts.**

The Respondent is a corporation organized December 12th, 1881, under the laws of Wisconsin by the Corporate name of "The Parker Dennett Harvesting Company" with a capital stock of \$100,000 the business thereof being the manufacture, purchase, sale and repair of harvesting machines and other kinds of farm machinery and implements.

By amendment of its articles of association on the 15th of March, 1882, its name was changed to "The Dennett Harvesting Machine Company." By further amendments on the 6th of February, 1883, its capital stock was increased to \$250,000. On the 9th of April, 1884 to \$500,000, and on the 19th of November, 1884, its name was changed to the "Milwau-

kee Harvester Company." On the 15th of April, 1889, its capital stock was increased to \$750,000. On the 5th of April, 1892, it was licensed to do business in the State of Missouri. On the 3rd of February, 1893, its capital stock was increased to \$1,000,000 and on the 8th of September, 1902, its name was changed to The International Harvester Company of America. Its plant was located in the City of Milwaukee, Wisconsin, and the trade name of its harvesting machines was "*The Milwaukee*." During these years it was actively engaged in the manufacture and sale of these machines in competition with the machines of many other independent companies, among these, with the "McCormick" manufactured by the McCormick Harvester Company incorporated under the laws of the State of Illinois September 11th, 1879, and licensed to do business in the State of Missouri on the 5th of October, 1891. "*The Plano*" manufactured by the Plano Manufacturing Company incorporated under the laws of the State of Illinois March 3rd, 1881, and licensed to do business in the State of Missouri on the 11th of February, 1892. "*The Champion*" manufactured by the Warder, Bushnell & Glessner Company incorporated under the laws of the State of Ohio October 18, 1886, and licensed to do business in the State of Missouri on the 29th day of October, 1891. "*The Osborne*" manufactured by D. M. Osborne and Company incorporated under the laws of the State of New York on the 29th of April, 1875, and licensed to do business in the State of Missouri on the 28th of September, 1891. "*The Buck Eye*" manufactured by the Aultman Miller Company incorporated under the laws of the State of Ohio in the year 1865 and licensed to do business in the State of Missouri on the 6th of August, 1891. "*The Deering*" manufactured by the Deering Company, a co-partnership in the State of Illinois, and with several



other harvesting machines of minor importance the names of which and their manufacturers need not be set out in this connection. Of the aggregate amount of business done in the United States and in the State of Missouri by all those engaged in the Harvesting Machine trade in the year 1902, and for several years prior thereto, from 80 to 90 per cent. thereof was done by six of the Companies aforesaid, as follows: in the relative order of the volume of the business done by each—(1) The McCormick Company, (2) The Deering Company, (3) The Warder-Bushnell & Glessner (Champion) Company, (4) The Plano Company, (5) The Osborne Company, (6) The Milwaukee Company. During those years the competition between these six companies was active, persistent, strenuous, and fierce. It grew in intensity as the years went by, and was fraught with so many evils from the viewpoint of the manufacturers that to relieve the situation, in June, 1902, Cyrus H. McCormick, President of the McCormick Company went to New York, had an interview with George W. Perkins, a member of the firm of J. P. Morgan & Co. and fully explained to him the situation of the harvester business from his standpoint. This led to subsequent interviews between Perkins and McCormick and between Perkins and the controlling officers of *The Deering Company*; *The Warder-Bushnell & Glessner Company*; *The Plano Company* and *The Milwaukee Company* the result of which was that on the 28th of July, 1902, Perkins having, in the meantime, secured an option for J. P. Morgan & Co. on all the property and capital stock of the Milwaukee Company, an agreement was reached between these five harvesting machine companies by which the property of each was to be transferred to one William C. Lane, a disinterested financial agent selected for that purpose by Perkins; to be by Lane conveyed and transferred to a

corporation to be thereafter organized with a capital stock not exceeding \$120,000,000, the properties to be paid for in shares of the capital stock of the proposed corporation. This agreement was manifested by separate written contracts of that date executed by and between Lane and each of said Companies of the same general purport and effect, one of which will sufficiently illustrate the agreement; the one with the McCormick Company used for that purpose is as follows:—

#### AGREEMENT OF JULY 28, 1902.

AN AGREEMENT, made and entered into this 28th day of July, nineteen hundred and two, by and between the McCormick Harvesting Machine Company (hereinafter called the "Vendor") party of the first part, and William C. Lane, (hereinafter called the "Purchaser") party of the second part.

WHEREAS, the Vendor is a corporation duly organized and existing under the laws of the State of Illinois and owns certain manufacturing properties located at Chicago, Illinois, and employed in the manufacture of harvesting machinery and other properties intended for use in connection therewith; and

WHEREAS, the Purchaser desires to acquire said properties and intends, upon the acquisition of said properties to sell, convey, and transfer the same to a corporation now existing or hereafter to be organized under the laws of the State of Illinois, or other state (hereinafter called the "Purchasing Company") with capital stock as hereinafter provided:

NOW, THIS AGREEMENT WITNESSETH, that the parties hereto have agreed and covenanted as follows:

*First.* The Vendor agrees, for the considerations and upon the terms hereinafter stated to sell, assign, transfer, convey and deliver unto

the Purchaser his nominee or assign, by good and indefeasible title, free and clear of incumbrances, indebtedness and liabilities, except as herein stated, and the Purchaser agrees to purchase, all and singular the real estate, factories, plants, buildings, improvements, machinery, patterns, tools, apparatus, fixtures and appliances of the Vendor, and all the patents, inventions, devices, patent rights, licenses, trade marks, trade names, and good will of all and singular said property as a going concern, and also all of the products manufactured and in process of manufacture, materials, supplies, and merchandise on hand at the time of closing said sale, and all and singular its then pending contracts for the purchase of property or materials or the sale of products; also, all interest in fiber lands, as well as all other property of the Vendor, appertaining to the Vendor's business aforesaid.

There shall also be sold and purchased with said properties \$20,000,000 (at face value and accrued interest) of bills and accounts receivable, representing the sales made by the Vendor. Such bills and accounts receivable are to mature prior to March 1, 1905, and are to be guaranteed as hereinafter provided. Cash may be substituted for the whole or any part of such accounts and bills receivable, at the option of the Vendor.

*Second.* The Vendor agrees that, as soon as practicable after the execution of this instrument, it will in pursuance of due authority to be conferred by the vote or consent of all of its stockholders, duly execute and acknowledge, and cause to be forthwith deposited with J. P. Morgan & Co., or a trust company designated by them, as depositary proper deeds and other instruments of conveyance and sale for the granting, conveying and transferring, as aforesaid, unto the purchaser and its assigns, all the prop-

erty hereinbefore recited, together with evidence of the vote or consent of the stockholders of the Vendor, as aforesaid. Such depository shall hold the said deeds and other instruments in escrow and deliver the same to the Purchaser, or upon his order, only upon receiving for account of the Vendor the consideration hereinafter provided and upon the performance by the Purchaser of the provisions hereof.

*Third.* The Vendor agrees to deliver to said depository, as soon as practicable, full statements in respect of its property and its assets and liabilities, its contracts for the purchase of materials and other property and for the sale of its manufactured products, and otherwise, relating to its property and business. The Vendor agrees that, pending the performance of and while this contract is in force, it will not, without the written consent of the Purchaser, or of said Purchasing Company, enter into any new contracts or assume any new obligations or make any purchases or sales such as are necessary and customary in the ordinary conduct of its regular business or to maintain it as a going concern and except such as may be necessary for the performance of agreements already entered into; nor make payments in advance of their maturity on pending contracts. The Vendor further agrees that during and while this contract is in force, no increase shall be made in its capital stock, or in the capital employed in its business, and no bonds issued and that no mortgage, lease or conveyance shall be made upon or in respect of its real estate or plant without the written consent of the Purchaser; and, also, that in case of any difference of opinion between the Vendor and the Purchaser in relation to the conduct of the business of the Vendor, such difference shall be decided by J. P. Morgan or George W. Perkins, whose decision shall be final. All service contracts of the Vendor taken over by the Purchasing

Company shall be terminable, on sixty days' notice, unless specific cases otherwise determined by said Purchasing Company; and the Vendor shall indemnify the Purchasing Company against any claim under profit sharing contracts. In the case of any property delivered to the Purchaser by the Vendor, which is subject to incumbrance, the amount of the incumbrance shall be deducted in determining the value thereof.

*Fourth.* The Purchaser and said Purchasing Company, and his or its nominees, the appraisers, accountants and counsel, shall have the right to examine the deeds and other instruments of conveyance and transfer so to be deposited by the Vendor with the depository, as aforesaid, and shall, if the Purchaser shall so require, be furnished with abstracts of title, title deeds, and surveys, which may facilitate the examination of the title to the property to be conveyed or transferred and shall have free access to all the deeds, contracts, books and records of the Vendor for the purpose of examining and verifying the statements made with respect to its property, business assets, liabilities and corporate status.

*Fifth.* The purchase price to be paid by the Purchaser to the Vendor for all and singular said property, shall be the aggregate of the several appraisals and valuations hereinafter provided for and of said accounts and bills receivable and cash, if any, and shall be payable in full paid and non assessable shares of the capital stock of said Purchasing Company taken at par.

In order to make such appraisals and fix and determine such valuations, the property of the Vendor shall be classified as follows:—

(1) Real estate, buildings, factories, warehouses, fixtures, machinery, tools, patterns, drawings, moulds, and all other personal property used in connection with or appertaining to the Vendor's business and which is not intended for

sales in the ordinary course of business or to form part of or to be consumed in the manufacture of the Vendor's products, and including pending contracts for purchase of real property and for construction of buildings or fixtures, but not including the property and contracts otherwise classified. The assets of this class are hereinafter collectively designated as "Plant."

(2) All materials on hand, manufactured, unmanufactured or in process of manufacture, including any and all articles intended to form part of or to be used in manufacturing the Vendor's product. The assets of this class are hereinafter collectively designated as "Materials on Hand."

(3) Unexecuted contracts or orders for the sale of the Vendor's manufactured products; but not including contracts or orders for deliveries after the year 1902, for which latter contracts and orders (although to be transferred) no allowance shall be made. No allowance shall be made for contracts or orders for delivery prior to January 1, 1903, unless the material necessary for the completion of the machines or other manufactured products shall be in the possession of the Vendor and upon its plant at the time of the appraisal. Such contracts are hereinafter collectively designated as "Pending Sales."

(4) All contracts, heretofore entered into by the Vendor for the purchase of material to be used in the manufacture of its products. Such contracts are hereinafter collectively designated as "Material Contracts."

(5) The railroad property and equipment belonging to the Vendor, including the lease which has been agreed upon with the Atchison, Topeka & Santa Fe Railroad Company, such property being hereafter designated as the "McCormick Railroad."

(6) Patents, patent rights, devices, inventions, licenses, trade marks, trade names, and

good will, including the value of the established business, name, standing in the trade, stability of business, organization, trade or custom as a going concern. Such assets are hereinafter collectively designated as "Patents, Good-will, etc."

The value of the plant, as above defined shall be ascertained and determined by three appraisers, who shall fix the present value of such plant as a going concern. One of such appraisers shall be nominated and appointed by the Vendor, and the other two by J. P. Morgan & Co.

The present value to a going concern of said materials on hand, of the said pending sales, and of the said material contracts, as above defined, shall similarly be determined by three appraisers, one to be nominated and appointed by the Vendor and two by J. P. Morgan & Co. Such appraisers shall make allowance in their judgment for unprofitable contracts.

The value of the McCormick Railroad to a going concern as above defined shall be determined by J. P. Morgan or George W. Perkins.

The value of the patents and good-will shall, for the purposes of this contract, be a sum equal to the net profits of the Vendor during the two years ending November 30, 1902, as ascertained in the manner hereinafter provided, plus ten per cent. thereof; and to such amount shall be added the value of the name, standing in the trade, stability of business, organization, trade, custom, etc., of the Vendor as a going concern, which value shall be fixed by J. P. Morgan or George W. Perkins in his sole discretion.

The profits of said two years shall be ascertained and reported to J. P. Morgan & Co. by three accountants, one of whom shall be nominated by the Vendor and the other two by J. P. Morgan & Co. In calculating the net profits of the business, there shall be excluded all allowance for interest on bills and accounts receivable as well as the cost of collecting bills and



amounts receivable, and all interest paid or payable on moneys used by the Vendor and belonging to the trustees of Mary V. McCormick or Cyrus H. McCormick, Harold F. McCormick or Stanley McCormick and interest on the sum of \$1,000,000 borrowed by the Vendor on the security of property belonging to the Messrs. McCormick individually. Said accountants, in calculating the net profits for said two years, shall make allowance for depreciation or loss, if any, on bills and accounts receivable, for depreciation or loss, if any, of materials on hand, or for depreciation, if any, of the said plant from wear and tear or otherwise. In each case hereinbefore enumerated the decision, appraisal or report of a majority of the appraisers or accountants or the decision of J. P. Morgan or George W. Perkins (if sole arbitrator or appraiser) as the case may be, shall be binding and conclusive upon the parties hereto.

*Sixth.* Payment of the amount of all contracts or orders for sales of manufactured products included as assets of the Vendor as aforesaid and transferred under this contract shall be guaranteed to the satisfaction of J. P. Morgan & Co. by the Vendor, and the net value thereof shall be appraised on that basis. Any and all accounts and bills receivable transferred by the Vendor hereunder shall be taken as their face value and accrued interest to date of transfer; but the Vendor shall guarantee and hereby does guarantee that the Purchaser or Purchasing Company shall realize thereon such face value and interest accrued and to accrue and that said principal and interest shall all be received on or prior to the first day of March, 1905. The collections shall be made by the Purchasing Company, but the expense of collection shall be borne by the Vendor. Pending such collections, the Vendor agrees to advance and pay to the Purchasing Company on demand, from time to time,

on account of such guaranty such amounts as the board of directors of the Purchasing Company may determine as convenient for the conduct of its business, but not in excess of such amounts as J. P. Morgan & Co. may from time to time approve. If such advance payments be made by the Vendor, then the Purchasing Company shall transfer to the Vendor, or its nominees an equal amount in principal and accrued interest of uncollected accounts or bills receivable of the earliest maturities. The Purchasing Company may take such measures as to it may seem wise, for the collection of the accounts and bills receivable and grant extensions and indulgencies to debtors by whom the same are payable without release of or prejudice to such guaranty or extension or change of the obligation of the Vendor to make payments as aforesaid. The Purchasing Company shall from time to time, on demand, furnish the Vendor a full statement showing which accounts and bills receivable remain unpaid, and what, if any, disposition has been made in regard thereto or steps taken to enforce the collection thereof.

The Vendor shall secure the guaranties on this article provided for, by collateral or otherwise, to the satisfaction of J. P. Morgan & Co. in their discretion.

*Seventh.* The Purchasing Company shall have such corporate title, capital stock, organization, by-laws, directors, and committees as may be approved by J. P. Morgan & Co. and shall have, in addition to materials on hand and inventories a working capital of \$60,000,000 to be represented by cash or bills and accounts receivable guaranteed as aforesaid.

*Eighth.* The amount and the classes (if there be more than one class) of the capital stock of the Purchasing Company shall be determined after the ascertainment of the aggregate value of all its assets and properties; but such amount and such classes shall severally be satisfactory

to J. P. Morgan & Co. If, however, there be only one class of stock, the capital stock, the capital stock shall not exceed \$120,000,000 par value, even though the aggregate value of the assets and properties of the Purchasing Company be in excess thereof. If there be both preferred stock and common stock the preferred stock shall not exceed \$120,000,000 par value and shall entitle the holders to cumulative preferential dividends at the rate of but not to exceed six per cent, per annum and accumulated dividends; and the common stock shall not exceed the remaining value of the corporate assets and the properties as so determined, which value may be ascertained and determined irrespective of the special appraisals which are to be made under this agreement.

If there shall be two classes of stock, then and in that event, the Vendor shall be entitled to receive as additional purchase price under this agreement common stock to an amount that shall bear to the total issue thereof the same proportion that the preferred stock to be received by the Vendor under this agreement shall bear to the total issue of preferred stock.

*Ninth.* The purchase provided for in this contract shall take effect as of such day in September, 1902, as shall be designated by the Purchaser with the approval of J. P. Morgan & Co. the appraisals shall be made as of such dates as nearly as practicable, and the performance of the contract shall be completed prior to January 1, 1903.

*Tenth.* The charter or certificate of incorporation or organization of the Purchasing Company shall provide, among other things, that the capital stock of the corporation shall not be increased or diminished except upon the affirmative vote or consent of the holders of at least two thirds of each class of the outstanding capital stock of the company. Said charter or certificate may also provide that the stockholders

may enter into a voting trust of their stock for a limited period. The charter or certificate shall likewise provide that no mortgage or lien upon the real property, plants, tools or machinery of the Purchasing Company shall be created without the affirmative vote or the consent of the holders of at least two thirds of each class of the outstanding capital stock.

*Elerenth.* The Vendor undertakes and agrees that it, or the holders of the stock of the Purchasing Company so to be issued in payment for the property to be transferred and conveyed under this agreement, shall deposit their stock with J. P. Morgan & Co. or a trust company to be designated by them, as depository, upon a voting trust, which shall provide, among other things, for the appointment of three voting trustees, one of whom shall be J. P. Morgan or George W. Perkins and the other two shall be persons appointed by J. P. Morgan & Co. The voting trust agreement shall be for the period of ten years, with provision, however, that it may be terminated at any time after the expiration of five years upon ninety days' notice, if a majority of the voting trustees shall so decide. The capital stock of the Purchasing Company shall be transferred to such voting trustees, who shall issue transferable certificates of beneficial interest entitling the holder to any dividends, distribution of profits and subscription rights which may accrue in respect of the stock so held by the voting trustees, and upon the termination of the voting trust entitling the holder to a proportionate amount of the stock so transferred to the voting trustees. The form, terms and provisions of the voting trust agreement shall be subject to the approval of J. P. Morgan & Co. The voting trust agreement shall contain adequate restrictions upon the voting power of the voting trustees in respect of an increase or diminution of capital stock, or the creation of any mortgage as aforesaid, so that

any vote or consent by the voting trustees for any such increase or diminution, or mortgage, shall be given only upon the affirmative vote or written consent of the owners of a corresponding amount of the voting trust certificates of interest outstanding.

The Vendor, or a majority of its stockholders, shall further agree with J. P. Morgan & Co. that during the first year after the issue of such stock or voting trust certificates, the Vendor or its stockholders shall own, and shall refrain from selling or otherwise disposing of, at least eighty per cent. of the original holdings acquired under this agreement or otherwise; during the second year at least sixty per cent. of such original holdings; during the third year at least forty per cent. of such original holdings; and thereafter and during the existence of the voting trust, at least one-third of such original holdings; provided, however the Vendor (or its stockholders) may at any time after the expiration of the fourth year withdraw from the custody of J. P. Morgan & Co. and sell or otherwise dispose of, the remaining one-third of said original holdings, or any part thereof, but in such case any voting trustee representing such holdings shall immediately resign as trustee if desired by the two remaining trustees. A successor shall thereupon be appointed by the other two trustees.

As guarantee for the performance of the foregoing covenant not to sell or otherwise dispose of stock or voting trust certificates the Vendor or its stockholders shall severally pledge with J. P. Morgan & Co. an amount of stock or voting trust certificates equal to the proportion which they have agreed to continue to own, which stock shall be released and delivered to them or upon their orders from time to time as they may become entitled to sell; but, except as herein otherwise provided, one-third of the total original holdings

as aforesaid shall remain pledged with J. P. Morgan & Co. during the existence of the voting trust.

In case during the first year after the issue of said stock by the Purchasing Company the Vendor shall desire to sell any of the stock or voting trust certificates which it is free to sell under the provisions hereof, it shall offer the stock to J. P. Morgan & Co. by notice in writing, specifying the amount of the stock and the price at which the same is offered, and the Vendor shall be entitled to sell such stock to others only in case J. P. Morgan & Co. shall not within twenty days thereafter purchase said stock at the price named in the notice or at a price satisfactory to the Vendor.

*Twelfth.* This contract, or any part thereof, may be transferred by the purchaser to the Purchasing Company, and such Purchasing Company may thereupon enforce all and singular its terms and conditions as fully to all intents and purposes as if it were a party thereto. The place of performance of this contract shall be at the office of the Hudson Trust Company, Hoboken, New Jersey.

*Thirteenth.* The individual holders of a majority of the capital stock of the Vendor shall jointly and severally guarantee the performance of this contract by the Vendor as well as the substantial performance of all and singular the covenants, agreements and guaranties which may survive the dissolution of the Vendor, should such dissolution be finally determined upon.

The individual holders of all the capital stock of the Vendor shall as soon as practicable, and before the final consummation of this contract, cause to be deposited with J. P. Morgan & Co. or with a trust company to be designated by them, as depository, certificates representing all the capital stock of the Vendor, duly endorsed for transfer in blank, and such depository upon

the Vendor receiving said purchase price, shall deliver said certificates to the purchaser, his nominee or assign, but the original stockholders shall be entitled to all payments payable upon said stock as their distributive share of the purchase price hereunder, or of any other assets of the Vendor not herein undertaken to be conveyed or transferred.

*Fourteenth.* The Purchaser undertakes to duly secure by contract the appointment of J. P. Morgan & Co. as the fiscal agents of the Purchasing Company and their acceptance of such appointment in order that the Purchasing Company may secure and have the benefit and advantage of the advice of said firm in the management of its financial affairs.

If any dispute should arise under this contract as to its true intent or meaning, or in respect of the performance of any part thereof, whether between the parties hereto or between the Vendor and the Purchasing Company, the matter in dispute in each and every case shall be left to J. P. Morgan or George W. Perkins as sole arbitrator, and the decision of such arbitrator shall be binding and conclusive upon the parties.

*Fifteenth.* In case any appraiser, arbitrator, accountant or voting trustee shall for any reason fail or cease to serve, then and in said event another or a successor shall be nominated and appointed in his place by the Vendor or by J. P. Morgan & Co. respectively, as the case may be, subject, however, in the case of voting trustees, to the provisions of the voting trust agreement.

References in this agreement to J. P. Morgan & Co. shall apply to that firm as now or hereafter constituted.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be executed in its corporate name by its president and its cor-



porate seal to be hereunto affixed attested by its secretary, and the party of the second part has hereunto set his hand and seal the day and year first above written.

McCORMICK HARVESTING MACHINE COMPANY,  
By CYRUS H. McCORMICK,  
*President.*

Attest:

HAROLD F. McCORMICK,  
*Secretary.*

(Seal)

WM. C. LANE.

The only material difference between this and the other contracts was that the amount J. P. Morgan & Co. was to receive for the Milwaukee Company's property was fixed at the amount of their option therefor, and the amount of the guaranteed bills and accounts receivable of each of the other companies was different. In pursuance of this agreement and in accordance with the terms of these several written contracts, on the 12th of August, 1902, The International Harvester Company was incorporated under the laws of the State of New Jersey with an authorized capital stock of \$120,000,000 divided into 1,200,000 shares of the par value of \$100 each, and the certificates of stock therefor delivered to Lane, and on the 13th day of August, 1902, the same were by him delivered to George W. Perkins, Charles Deering and Cyrus H. McCormick and deposited with J. P. Morgan & Co. in pursuance of the contracts aforesaid and of a written agreement between them of that date, as follows:

#### VOTING TRUST AGREEMENT AUGUST 13, 1902.

THIS AGREEMENT, made in the City of New York this thirteenth day of August, one thousand nine hundred and two, by and between William C. Lane, party of the first part, and George W. Perkins, Charles Deering and Cyrus

H. McCormick, (hereinafter called the "Voting Trustees,") parties of the second part.

WITNESSETH AS FOLLOWS:

Whereas, the International Harvester Company (hereinafter called the "Company") is a corporation organized under the laws of the State of New Jersey with a capital stock of \$120,000,000 divided into 1,200,000 shares, of the par value of \$100 each, all of which stock has been issued and is outstanding, and

Whereas, the party of the first part has caused to be delivered to the Voting Trustees certificates for fully-paid shares of the capital stock of the company to the amount of its entire capital stock (excepting such shares as are necessary to qualify directors); and said certificates together with such other certificates for stock of the company as hereafter, from time to time, may be delivered hereunder are to be held and disposed of by the Voting Trustees under and pursuant to the terms and conditions hereof;

NOW THEREFORE,

*First.* The Voting Trustees agree with the party of the first part, and with each and every holder of stock trust certificates issued as hereinafter provided, that, from time to time, upon request, they will cause to be issued to the party of the first part, or upon his order, in respect of said stock of the Company received from him, certificates in substantially the following form:

INTERNATIONAL HARVESTER COMPANY.

No.

Shares.

STOCK TRUST CERTIFICATES.

THIS CERTIFIES, that as hereinafter provided \_\_\_\_\_ will be entitled to receive a certificate or certificates for \_\_\_\_\_ fully paid shares of one hundred dollars each, of the capital stock of the International Harvester Company, and, in the meantime, to receive payments equal to the dividends, if any, collected by the undersigned Voting Trustees upon a like

number of such shares standing in their names, such dividends, if received by the Voting Trustees in stock of said Company, to be payable in stock trust certificates. Until the actual delivery of such stock certificates the Voting Trustees shall possess, in respect of any and all of such stock, and shall be entitled, in their discretion, to exercise, all rights and powers of absolute owners of said stock, including the right to vote for every purpose and to consent to any corporate act of said company, it being expressly stipulated that no voting right passes by or under this certificate, or by or under any agreement expressed or implied.

This certificate is issued pursuant to, and the rights of the holder are subject to and limited by, the terms and conditions of a certain agreement, dated the thirteenth day of August, 1902, by and between William C. Lane and the undersigned Voting Trustees.

Stock certificates shall be due and deliverable in exchange for stock trust certificates on, but not before, August 1, 1912, unless a majority of the Voting Trustees elect as they may, to terminate said agreement after August 1, 1907, upon not less than ninety days' notice.

This certificate is transferable only on the books of the Voting Trustees by the registered holder thereof, either in person or by attorney duly authorized, according to rules established for that purpose by the Voting Trustees, and on surrender thereof, and, until so transferred, the Voting Trustees may treat the registered holder as owner hereof for all purposes whatsoever, except that they shall not be required to deliver stock certificates hereunder without surrender hereof.

This certificate is not valid unless duly signed on behalf of the undersigned Voting Trustees by ..... their agents and also registered by ..... as Registrar.

IN WITNESS WHEREOF, the undersigned Voting Trustees have caused this certificate to be signed by their duly authorized agents.....  
 this ..... day of .....  
 one thousand nine hundred and .....

VOTING TRUSTEES.

By ..... Their Agents.

By ..... President.

Registered this ..... day of .....,  
 19.....

..... Registrar.

By ..... Secretary."

*Second.* At any time after August 1, 1907, if a majority of the Voting Trustees so decide, this agreement may be terminated; but at least ninety days' notice of an intention to terminate this agreement must be given by the Voting Trustees according to the provisions of Article Tenth hereof. This agreement shall in any event terminate on August 1, 1912, without notice by or action of the Voting Trustees. On August 1, 1912, or upon the earlier termination of this agreement, the Voting Trustees in exchange for, or upon surrender of, any stock trust certificate then outstanding shall, in accordance with the terms hereof, deliver proper certificates of stock of the company, and may require the holders of stock trust certificates to exchange them for certificates of capital stock.

In case on or after the termination of said agreement the Voting Trustees shall deposit with an incorporated bank or trust company of good standing, having an office in the City of New York, stock certificates properly endorsed for transfer in blank, representing stock of the Company to a par amount equal to the par amount of the stock trust certificates outstanding, with authority in writing to such bank or trust company to deliver the same in exchange for stock trust certificates when and as surrendered for exchange as herein provided, then all further

liability of said trustees, or any of them, for the delivery of stock certificates in exchange for stock trust certificates shall cease and determine.

*Third.* The term company, for the purposes of this agreement and for all rights thereunder, including the issue and delivery of stock, shall be taken to mean the said corporation organized under the laws of the State of New Jersey, or any successor corporation or corporations into which the same may be consolidated or merged.

*Fourth.* From time to time hereafter, the Voting Trustees may receive any additional fully paid shares of the capital stock of the Company and in respect of all such shares so received, will issue and deliver certificates similar to those above mentioned, entitling the holders to the rights above specified. In case the Company shall hereafter have both common and preferred stock the Voting Trustees may receive, subject to the provisions hereof, certificates representing fully paid stock of each class, and the stock trust certificates shall indicate upon their face whether they represent common or preferred stock, and holders of stock trust certificates representing one class of stock shall have no interest in, or claim upon, stock of the other class. In any such event the stock trust certificates outstanding shall be surrendered by the holders thereof in exchange for new certificates specifying the class of stock, whether preferred or common, represented thereby. In case the Voting Trustees shall receive any stock of the Company issued by way of dividend upon stock held by them subject to said agreement, they shall hold such stock subject to the terms of said agreement and shall issue stock trust certificates representing such stock to the respective registered holders of the then outstanding stock trust certificates entitled to such dividend.

*Fifth.* Any voting trustee may, at any time,

resign by delivering to the other trustees, in writing, his resignation to take effect ten days thereafter. In case of the death or the resignation or the inability of any Voting Trustee to act, the vacancy so occurring shall be filled by the appointment of a successor or successors, to be made as follows: Any successor in the line of succession to George W. Perkins shall be appointed by J. P. Morgan & Co., as said firm now is or may hereafter be constituted. Any successor in the line of succession to Charles Deering shall be appointed by James Deering, or in case of his failure to act, by Richard F. Howe, and in case of the failure of either to act, by the other two Voting Trustees. Any successor in the line of succession to Cyrus H. McCormick shall be appointed by Harold F. McCormick, or in case of his failure to act, by Stanley McCormick, and in case of the failure of either to act, by the other two Voting Trustees. The term Voting Trustee, as used herein and in said certificate shall apply to the parties of the second part and their successors hereunder.

*Sixth.* The Voting Trustees may adopt their own rules of procedure. The action of a majority of the Voting Trustees expressed from time to time at a meeting or by writing with or without a meeting, shall, except as otherwise herein stated, constitute the action of the Voting Trustee and have the same effect as though assented to by all. Any Voting Trustee may vote in person or by proxy, and may act as a director or officer of the Company.

*Seventh.* In voting the stock held by them, the Voting Trustees will exercise their best judgment from time to time to secure suitable directors to the end that the affairs of the Company shall be properly managed, and in voting and in acting on other matters which shall come before them as stockholders or at stockholders'

meetings, will likewise exercise their best judgment, but they assume no responsibility in respect of such management or in respect of any action taken by them or taken in pursuance of their consent thereto as such stockholders, or in pursuance of their vote so cast, and no Voting Trustee shall incur any responsibility by reason of any error of law or of any matter or thing done or suffered or omitted to be done under this agreement, except for his own individual wilful malfesance.

*Eighth.* The Voting Trustees possess and shall be entitled in their discretion to exercise until the actual delivery of stock certificates in exchange for stock trust certificates, all rights and powers of absolute owners of said stock, including the right to vote for every purpose and to consent to any corporate act of said Company, it being expressly stipulated that no voting right passes to others by or under said stock trust certificates, or by or under this agreement or by or under any agreement, expressed or implied; the Voting Trustees shall not, however, during the pendency of this agreement vote in respect of the shares of the capital stock of the company held by them to authorize or consent to any mortgage or other lien upon the property of the company, or (except as herein otherwise specifically provided) to authorize any increase or diminution in the amount of the authorized capital stock of said company, except with the consent in each instance of the holders of stock trust certificates representing two-thirds in amount of each class of stock at the time deposited hereunder, given in writing, or by vote at a meeting called for that purpose, provided, however, that the Voting Trustees may, in their discretion, prior to July 1, 1903, without the consent of holders of any stock trust certificates, consent to and authorize the increase of the Company's capital stock to an amount not exceeding



one hundred and eighty million dollars (\$180,000,000).

*Ninth.* For the purpose of this agreement any consent in writing by the holders of stock trust certificates may be in any number of concurrent instruments of similar tenor, and may be executed by the certificate holders in person, or by agent or attorney appointed by an instrument in writing. Proof of the execution of any such consent or of a writing appointing any such agent or attorney, or of the holding by any person of stock trust certificates, issued hereunder, shall be sufficient for any purpose of this indenture, and shall be conclusive in favor of the Voting Trustees with regard to any action taken by them under such consent, if made in the following manner, viz: (a) The fact and date of the execution by any person of any such consent may be proved by the certificate of any notary public or other officer authorized to take, either within or without the State of New York, acknowledgment of deeds to be recorded in any State, certifying that the person signing such consent acknowledged to him the execution thereof; or by the affidavit of a witness to such execution. (b) The amount of stock trust certificates held by any person executing any such consent and the issue of the same, may be proved by a certificate executed by any trust company, bank or other depository (wheresoever situated) whose certificate shall be deemed by the Voting Trustees to be satisfactory, showing that at the date therein mentioned such person had on deposit with such depository, or exhibited to it, the stock trust certificates numbered and described in such depository's certificate.

*Tenth.* All notices to be given to the holders of stock trust certificates hereunder shall be given either by mail to the registered holders of stock trust certificates at the addresses furnished by such holders to the Voting Trustees

or to the agents of the Voting Trustees, or by publication in two daily papers of general circulation in the City of New York and in two daily papers of general circulation in the City of Chicago, twice in each week for two successive weeks; and any call or notice whatsoever, when either mailed or published by the Voting Trustees as herein provided, shall be taken and considered as though personally served on all parties hereto, including the holders of said stock trust certificates, and such mailing or publication shall be the only notice required to be given under any provision of this agreement.

*Eleventh.* This agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the several parties have hereunto set their hands and seals, in the City of New York the day and year first above mentioned.

Thereupon a Board of Directors was selected by said Trustees as follows:

Cyrus H. McCormick, former president and director of the McCormick Harvester Company.

Harold F. McCormick, former vice-president of the McCormick Harvester Company.

Stanley F. McCormick, formerly of the McCormick Harvester Company.

Cyrus Bentley, former attorney for the McCormick Harvester Company, and first general counsel for the International Harvester Company.

Charles Deering, former member of the Deering Company.

James Deering, former member of the Deering Company.

Richard F. Howe, former member of the Deering Company, and brother in law of Deering Brothers.

William Deering, member of the Deering firm.

Wm. H. Jones, former vice-president of the Plano Company.

John J. Glessner, former vice-president of the Warder-Bushnell and Glessner Company.

P. D. Cravath, attorney for J. P. Morgan & Company, and in whose office the transfer contracts were signed.

George W. Perkins, junior member of J. P. Morgan & Co. who, at the time of the combination, represented and controlled respondent company.

Charles Steele, member of the firm of J. P. Morgan & Company.

E. H. Gary of the steel trust.

George F. Baker, president of the First National Bank of New York, proposed as director by George W. Perkins.

W. J. Calhoun.

Norman B. Ream, New York Capitalist.

Leslie D. Ward, resident director in State of New Jersey for jurisdiction purposes.

And officers as follows:

Charles Deering, chairman of board of directors.

Cyrus H. McCormick, President.

James Deering, Vice-President.

Harold McCormick, Vice-President.

J. J. Glessner, Vice-President.

W. H. Jones, Vice-President.

Richard F. Howe, Secretary.

Harold F. McCormick, Treasurer.

And the International Harvester Company became fully organized, and thereafter all the properties of the McCormick Company, The Deering Company, The Warder-Bushnell & Glessner Company, The Plano Company and the Milwaukee Company were transferred and conveyed to the International Harvester Company as provided for in the contracts aforesaid.

On the 2nd of September, 1902, a memorandum

of agreement between the International Harvester Company and the Milwaukee Company was executed as follows:

AGREEMENT OF 2ND SEPTEMBER, 1902.

Memorandum of Agreement made this 2nd day of September, 1902, between the International Harvester Company, a corporation of the State of New Jersey (hereinafter referred to as the Manufacturing Company) party of the first part, and the Milwaukee Harvester Company, a corporation of the State of Wisconsin (hereinafter referred to as the Selling Company), party of the second part:

The Manufacturing Company is engaged in the business of manufacturing harvesting and agricultural machinery, tools and implements and twine and in selling its products in the United States of America and other countries.

The Selling Company is duly authorized by law to engage in the business of selling harvesting and agricultural machinery, tools and implements and twine. The Selling Company desires to enter into a contract with the Manufacturing Company for the purchase and sale of the former's products in the United States of America and elsewhere.

In consideration of the premises and agreements herein contained and other valuable considerations, the receipt whereof from each party is hereby acknowledged, the parties hereto covenant and agree as follows:

1. The Selling Company shall undertake the sale of the Manufacturing Company's products in the territory aforesaid and shall maintain such branch houses, warehouses and agencies and employes as shall be necessary to that end. The Selling Company shall do such advertising and take such measures as shall be necessary to exploit the sale of the Manufacturing Company's products.

The Selling Company shall purchase from the Manufacturing Company from time to time such of the Manufacturing Company's products as it requires to fill its orders and carry a sufficient stock at its various warehouses and branch houses.

All of the Manufacturing Company's products purchased by the Selling Company shall be purchased free on board the cars at the City in which is located the particular plant at which the products purchased were manufactured and all products so purchased and delivered shall be the property of the Selling Company.

The Manufacturing Company shall manufacture such harvesting and agricultural machinery, tools and implements and twine of the kinds heretofore manufactured by the plants of the Manufacturing Company, as well as of such other kinds as the parties hereto may agree upon, as the Selling Company shall require for its business and shall carry such a stock of the various kinds of machinery, tools and implements and twine as shall be necessary to meet the requirements of the Selling Company's business.

2. The prices to be paid by the Selling Company for the product of the Manufacturing Company purchased under the provisions of this contract shall be the following:

#### SCHEDULE.

The prices of any articles not expressly mentioned in this schedule shall be such as may be agreed upon by the General Manager of Manufacturing Company, and the General Manager of Sales for the time being of the Selling Company, or as may be otherwise fixed in any legal way. Settlements between the two companies shall be made not later than the first day of February in each year for the business of the preceding year. The Selling Company may make payments either in cash or in accounts and

bills receivable received by it from its agents and customers, or partly in cash and partly in such accounts and bills receivable. The Selling Company hereby guarantees the payment at maturity of the principal of and interest upon all accounts and bills receivable so used in payment. In case any of such accounts and bills receivable are not paid at maturity the same may, at the option of the Manufacturing Company, be re-assigned to the Selling Company and in such case the Selling Company shall pay the Manufacturing Company in cash the amount of principal of and interest accrued up to the time of such reassignment upon the accounts and bills receivable so reassigned.

The Selling Company further agrees that it will, without delay, take such action as shall be necessary in law for the changing of its corporate name from "Milwaukee Harvester Company" to "International Harvester Company of America."

This contract shall continue in force until October 1, 1903, and thereafter from year to year unless terminated by either party on any first day of October on at least thirty (30) days' previous notice in writing to the other.

IN WITNESS WHEREOF, the parties to this contract have caused their respective corporate names to be hereunto subscribed by their respective presidents and their respective corporate seals to be hereunto affixed, duly attested by their respective secretaries, all as of the day and year first above written.

INTERNATIONAL HARVESTER COMPANY,

(Signed) By CYRUS H. McCORMICK,  
*Its President.*

Attest: (Seal)

RICHARD F. HOWE, (Signed)  
*Secretary.*

MILWAUKEE HARVESTER COMPANY,

(Signed) By GEO. P. MILLER,  
*Its President.*

Attest: (Seal)

ARTHUR W. FAIRCHILD (Signed)  
*Secretary.*

In pursuance of this agreement by an amendment of its Articles of Association adopted on the 5th of September, 1902, the name of the Milwaukee Harvester Company was changed to The International Harvester Company of America as heretofore stated and these Articles were further amended on the 18th of September, 1902, by striking out all the provisions of said Articles of Association then in force and substituting new ones in harmony with the new purpose and name by which it has become the Respondent in this case. In the meantime the capital stock of that Company having been transferred to the said George W. Perkins, Charles Deering and Cyrus H. McCormick in trust solely for the benefit of the stockholders of the International Harvester Company a Board of Directors and officers for that Company were selected as follows:

#### DIRECTORS.

Charles Deering, of the Deering Company.  
 James Deering of the Deering Company.  
 Richard F. Howe of the Deering Company.  
 Cyrus H. McCormick of the McCormick Company.  
 Harold F. McCormick of the McCormick Company.  
 Stanley F. McCormick of the McCormick Company.  
 J. J. Glessner of the Warder, Bushnell & Glessner Company.  
 W. H. Jones of the Plano Company.  
 George W. Perkins.

The new officers of the respondent company were made up exclusively of the then and former officers of the other four companies, they being also, at that time, officers of the International Harvester Company.

#### OFFICERS.

Charles Deering, Chairman of Board of Directors.  
 Cyrus H. McCormick, President.



James Deering, Vice-President.

Harold F. McCormick, Vice-President.

J. J. Glessner, Vice-President.

W. H. Jones, Vice-President.

Richard F. Howe, Secretary.

Harold F. McCormick, Treasurer.

For the property and capital stock of this company J. P. Morgan & Co. who represented it in the deal had paid in cash the sum \$3,148,196.66. For their services and cash paid for attorney fees and all other expenses of the organization of the International Harvester Company, they charged the sum of \$3,451,803.34 making \$6,600,000 which was fixed as the amount of the capital stock of the International Harvester Company they were entitled to.

The appraisement of the tangible properties of the McCormick Company, The Deering Company, The Warder-Bushnell & Glessner Company and the Plano Company was not concluded until some time in the year 1903, when the amount of the capital stock of the International Harvester Company to which they were entitled therefor was fixed at the sum of \$53,400,000 although the appraisement was largely in excess of that amount. Thereupon stock trust certificates for \$120,000,000, the whole amount of the capital stock of the International Harvester Company, were issued, of which J. P. Morgan & Co. received certificates for shares of stock amounting to \$6,600,000. The McCormick Company, The Deering Company, The Warder, Bushnell & Glessner Company and The Plano Company received certificates for shares of stock amounting to \$93,400,000 being \$53,400,000 for their tangible property, and \$40,000,000 for their guaranteed bills and accounts receivable or cash substituted therefor; and certificates for shares of stock to the amount of \$20,000,000 were received by other parties who had subscribed therefor through J. P. Morgan & Company; who these subscribers

were does not appear, but it seems that some of them were individual stockholders of these companies for Mr. McCormick states in his evidence that it was "a matter of five or six millions or more that was subscribed for by the McCormick interests, aside from all we got from properties and stocks and from the receivables. We subscribed for additional stock voluntarily as a business investment, it was not a matter of contract or agreement," and that he believed that the members of the other companies subscribed for additional stock, "but not as much." The distribution of the stock trust certificates between the Companies does not appear, but by some arrangement The Warder, Bushnell & Glessner Company instead of receiving all stock certificates for their property as the other companies did, received according to the evidence of Mr. Glessner "nearly a million and a half in money and about two millions in stock."

The International Harvester Company having thus acquired all the property of the McCormick Company, The Deering Company, The Warder, Bushnell & Glessner Company, The Plano Company, and of the Respondent Company and paid for the same with its capital stock; all of those companies ceased to do business as manufacturers and vendors of harvesting machines and other agricultural implements and that business which they had heretofore been engaged in, in competition with each other, was thereafter carried on solely by the International Harvester Company, *except* that The Respondent Company whose capital stock The International Harvester Company had also acquired, and for which Directors and officers had been selected by the Trustees from those of the International Harvester Company, was thereafter maintained by that Company as a separate corporate entity without capital except such as was vested in it for that purpose by the International Harvester Company, for the sole pur-

pose of vending its products. The exact date when these five companies ceased and the International Harvester Company entered upon the actual control of the business does not clearly appear from the evidence but it was sometime in December, 1902, or January, 1903. In the meantime, negotiations had been entered into between certain officers and stockholders of that company and the owners of the capital stock of the D. M. Osborne Company which in January, 1903, resulted in the purchase by those officers and stockholders of the capital stock of that company in the interest of the International Harvester Company and with its money and credit, to which all the property of that Company was thereafter transferred and conveyed; the deeds therefor bearing date September 15th, 1905. During the seasons of 1903 and 1904 this Company was managed and operated by its former officers, agents and employes and its business conducted as an independent company in the interest of the International Company until about the first of January, 1905, when its control and management was publicly assumed by the International Harvester Company. With the property of this company the International Harvester Company acquired that of the Columbia Cordage Company, as in the beginning it had acquired that of the Mexican Sisal Company and of the Illinois Northern Railway Company from the McCormick Company. The property of the former being a vast arid tract of land in New Mexico and of the latter a railroad 2½ miles long in Illinois.

Sometime in 1903 the International Harvester Company acquired control of the Aultman Miller ("Buckeye") Company, "The Minnie Company" and "The Keystone Company" manufacturers of harvesting machines by those names and in 1905 the properties of these companies were transferred and conveyed to the International Harvester Company. In the meantime they were operated and their busi-

ness conducted for two seasons in the interest of the International Company as independent companies. In 1904 the International Harvester Company acquired control of the "Weber Wagon Company" and in 1905 the property of that Company was transferred and conveyed to The International Harvester Company about which time The International also acquired the patents of the "Bettendorf Axle Company" and in 1906 the property of the "Kemp Company" a manufacturer of manure spreaders. Besides all the foregoing properties The International Harvester Company acquired and is the owner of the capital stock of "The Wisconsin Steel Company," and "The Wisconsin Lumber Company," a plant in Canada, and one in Sweden, the value of all its assets December 31st, 1907, according to its report of that date, being \$156,282,454.16.

In addition to its foreign trade its gross sales in the United States in the year 1903 to 1907, inclusive, approximated the sum of \$191,600,000 and in the State of Missouri to probably more than \$8,000,000. Its net profit for those years was \$34,706,307.48.

On the 8th of January, 1908, the capital stock of the Company by amendment of its charter, was changed making one half common, and one half seven per cent. cumulative preferred stock.

Among the valuable assets acquired by the Company were the trade names of the several harvesting machines. The manufacture of these machines was continued as before at the same plants with the same names except that the manufacture of the "Buck Eye," "The Keystone" and "The Minnie" was discontinued. "The Plano" was thereafter manufactured at the Deering and "The Milwaukee" at the McCormick Works and the plants of these machines devoted to the manufacture of other agricultural implements. The machines continued to be marked, catalogued and sold respectively as "The McCor-

mick," "The Deering," "The Champion," "The Plano," "The Osborne," and "The Milwaukee," and these together with all the other manufactured products of the International Harvester Company have since been sold exclusively by through and in the name of the Respondent Company re-organized for that purpose as aforesaid and all the net profits of the business have gone into the Treasury of the International Harvester Company.

In the beginning the principal line of the business of the International Harvester Company was the manufacture of harvesters or binders, and mowers; of different sizes, and rakes and twine, as it had been of its predecessors but from year to year other agricultural implements, machines and tools were added until its manufactures included a large number and a great variety of them, bringing it into competition with a great number of manufacturers of such other implements, machines and tools. Its sales in Missouri during the years 1903-1908 found at page 318 of the printed record discloses that in 1903 the Company, exclusive of what it manufactured and sold through D. M. Osborne & Company, manufactured and sold only the following machines and implements, and in the following numbers in Missouri: Grain Binders, 5,184; Mowers 10,208; Rakes 6,073; Headers and Push Harvesters 66; Corn Harvesters and Binders 126; Corn Huskers and Shredders 31; Corn Shockers 18; Reapers 56; and Knife Grinders 1,146; its principal line being Grain Binders, Mowers and Rakes.

In 1904 they added Tedders, of which they sold 19; Hay Balers of which they sold one, and gasoline engines of which they sold five.

In 1905 they added manure spreaders, of which they sold 59; Disc Harrows, selling 414; Spring Tooth Harrows, selling 114; Cultivators, selling 80; and Wagons, selling 865.

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In 1906 they added to their list Hay Loaders, selling 50; side delivery rakes, selling 8; Cream Separators, selling 10; Corn Shellers, selling 195; Horse Powers, selling 4, and Feed Grinders, selling 15.

In 1907 they added corn pickers, of which they sold 8, and Threshers, selling 4, and in 1908 they added farmer's automobiles of which they sold 45.

During succeeding years their sales in many of these side lines increased, while in some they decreased, but throughout their operations Grain Binders, Mowers and Rakes have continued to be the principal business, others being ancillary.

It is claimed in the answer that Respondent has not at any time controlled and does not now control more than thirty per cent. of the business of selling agricultural implements, tools and machinery in the State of Missouri. This is probably true and while it is impossible from the evidence to determine satisfactorily what proportion of the whole business is done by the Respondent, I find that in harvesting machines proper, that is to say in Harvesters or Binders, about 90 per cent. and in mowers about 75 per cent. is done by the Respondent, and that it is a strong competitor in most of the other lines in which it deals.

None of the sales of the products of the International Harvester Company are made by the Respondent directly to the farmer, but through carefully selected retail dealers in each locality under written contracts and schedules called Commission Agency Contracts. These contracts are entered into on behalf of the Respondent by general agents having control of a large territory with the local dealers, and in the contracts the territory of the dealer is specified in general terms as for instance "Jefferson City and trade tributary or vicinity." These contracts for the years 1903, 1904 and 1905 were in the following form:

## COMMISSION AGENCY CONTRACT.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, a corporation having offices in Chicago, Illinois, hereinafter designated "Company," and \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_ and State of \_\_\_\_\_ hereinafter designated "Agent" agree and contract this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_, as follows:

Said Company hereby appoints said \_\_\_\_\_ its Sales Agent under the limitations and restrictions herein specified for the sale of its \_\_\_\_\_ line of grain, corn and grass harvesting machinery, more particularly enumerated in schedule referred to in Article 10th of this contract, together with repairs for same, in the following described territory, to-wit:

\_\_\_\_\_ and no other during the season ending December 31st, 1905.

Said Agent accepts such agency and in consideration thereof and for the commission herein agreed to be paid, expressly agrees as follows:

1st: To receive all goods shipped under this agreement, to pay freight on the same from Chicago, keep the same well housed and in good condition, and to make good any damage resulting from the improper handling or storage of same until sold or reshipped; to keep the same free from all charge and expense to said Company, including all taxes which may be assessed on such goods carried over in said Agent's possession from the preceding year. To collect from the purchaser the freight on all goods sold or assume the loss of same, and in no case to charge said Company with any sum or sums for freight, handling, storage or other expenses, except provided that in case said Company shall remove or transfer any goods received under this contract, said Agent shall be entitled to the



actual freight paid when the goods were received; said Agent shall send promptly at the time of shipment to International Harvester Company of America, at \_\_\_\_\_ a duplicate shipping receipt for each shipment made.

2nd. To diligently and thoroughly canvass said territory and in all reasonable and proper ways promote the trade and interests of said Company, and do all business pertaining to the sale of said machines, attachments and repairs; and to be governed by the printed instructions on the back of this contract which are hereby made a part of the conditions hereof.

3rd. To deliver, set up and fairly start every machine sold, and to instruct the purchaser how to adjust it to work in different kinds and conditions of crops. To pay all livery expenses that may be incurred by experts or canvassers furnished by said Company while assisting said Agent.

4th. To sell to good and responsible parties only, and to draw all notes, taken on sales to the order of International Harvester Company of America, upon blanks furnished by said Company for that purpose; said notes to bear interest at the rate prescribed in said schedule of prices and terms. Notes taken by said Agent on any other terms than those prescribed by said Company shall at the Company's option, be applied in payment of said Agent's commission.

5th. To sell all machines or property received under this contract at such prices and on such terms as may be fixed in writing by said Company or its General Agent, in the territory herein mentioned.

6th. To settle with the purchaser for each machine or other article sold hereunder, either by cash or note. At The Time Of Delivery, and in case said Agent shall deliver any machine or other property mentioned herein for use in the

field, or permit the use of any thereof before it is fully settled for by cash or good and collectible note, said Agent shall account for and pay to said Company on demand the full price of the same, together with interest thereon from October 1st, 1905, and also all costs and expenses incurred on account of same, and without any claim for commissions from or under any warranty by said Company.

7th. To take a signed order from each purchaser, on blanks furnished by said Company, and to use or give no warranty on any such machines, other than the regular warranty which is incorporated in machine order blanks for goods furnished by said Company.

8th. To order all attachments and repairs for these machines from said Company, or its General Agent, and provide suitable storage therefor; and to sell the same for cash only and to remit the proceeds to said Company or its General Agent. Inasmuch as the reputation of the Company's machines is injured by the use of ill-fitting parts made of poor material, by persons not interested in the manufacture of machines said Agent agrees to handle none of such repair parts, but agrees to obtain all repair parts for use on the Company's machines from said Company.

9th. To furnish said Company, or its said General Agent whenever called upon, a full and detailed account of all sales made under this contract, on such blank forms as shall be furnished by said Company or its said General Agent for that purpose, and to make a full and complete settlement whenever called upon by said Company, or its said General Agent.

10th. Said Company agrees to pay said Agent as commission on machines and attachments sold, an amount equal to the excess in the total proceeds received from sales of said machines and attachments (as shall be shown by account sales) over and above what said machines and attach-

ments amount to at the net prices named to Agent in separate schedule of net prices and terms, issued or to be issued by said Company for the season of 1905 under this contract.

11th. All sales of machines on which said Company receives all cash on or before the dates mentioned in said schedule of prices and terms will be accepted as cash sales, and all machines that are not settled for in full with cash on or before said dates will be settled for at time prices.

12th. No commissions will be paid on attachments sold or furnished gratis with machines.

13th. Commissions shall only be paid on machines sold and settled for, and none shall be paid on machines returned, condemned, or on orders not filled; and in case sales are made to parties who are discovered or adjudged by said Company, or its said General Agent, to have been doubtful or worthless at the time of sale, the notes taken for such sales shall be received by said Agent to apply on payment of commissions due upon sales recognized and approved by said Company, and if the machine account at time of settlement is overpaid by notes, such surplus notes shall be received by said Agent as payment in full or in part of commissions due.

14th. Notes given in accordance with the terms of this contract by purchasers of machines, which are found to be good and collectible, shall be accepted at the time of settlement. Notes not in accordance with the terms of this contract shall be replaced by said Agent, upon demand, with cash or other notes acceptable to said Company.

15th. Said Company reserves the right to hold as collateral security for the payment of said Agent's indebtedness to said Company any purchasers' notes received by said Agent on account of sales of said Company's property, of-

ferred by said Agent in settlement but not finally accepted by said Company.

16th. Said Agent shall receive as commission on sales of repairs twenty-five per cent. of the list price thereof, as fixed by said Company's price list of repairs for these machines for the current year, and said Agent agrees to pay freight or express on same from General Agency or transfer point.

17th. IT IS FURTHER EXPRESSLY AGREED, that said Agent is to receive in the capacity of Agent of said Company and not otherwise, all goods shipped under this contract, and all moneys, property or other securities taken in payment for machines, attachments and repairs, or other property sold by said Agent for said Company.

18th. Said Agent further agrees under this contract not to retain, on account of commission or any other claim against said Company, any moneys, notes, or other property received from the sales of any articles hereunder or from collection on notes or accounts, but to promptly remit all moneys, notes or other property to said Company, or its said General Agent, leaving commissions and all other claims to be adjusted at settlement.

19th. Said Agent is strictly forbidden to take any part from any machine for the purpose of supplying customers with repairs.

20th. IT IS MUTUALLY AGREED, that said Company shall at all times have exclusive and entire control over all machines and attachments and all orders, contracts, accounts, notes, moneys or other property accruing and growing out of the sale of said machines, attachments, stackers, sweep rakes, hay rakes, hay tedders, twine, repairs or other property, whether for this or previous years, and may at any time, when it considers its interests are neglected or jeopardized, without notice, annul and terminate this and all prior contracts, and take possession of all orders, notes, accounts, moneys, machines,

attachments, stackers, sweep rakes, hay rakes, hay tedders, twine and any other property in the possession or under the control of said Agent by virtue thereof; and said Agent hereby waives all right of action for damages because of such cancellation of contract and termination of agency.

21st. Said Company agrees to use its best effort to complete and ship all machines ordered, and to supply all attachments and repairs ordered under this contract so long as its stock shall last, but shall not be held responsible to said Agent for any damage in case the demand for either of said machines, attachments or repairs shall exceed the supply whether growing out of interruption by fire or other elements, riot, labor disturbances, delay in transportation or any other cause whatsoever.

22nd. Said Agent especially agrees not to accept the agency for or to be interested in the sale of any grain binder, header, corn binder, husker and shredder, reaper, mower, stacker, sweep rake, hay rake, or hay tedder, other than those manufactured by the International Harvester Company, either directly or indirectly nor to permit any one acting for him as employee, agent or partner, so to do while acting as Agent for the said Company under this contract, and said Agent agrees to pay said Company, on demand as liquidated damages, twenty-five dollars for each grain binder, header or corn binder; fifty dollars for each husker and shredder; ten dollars for each mower, reaper or stacker; five dollars for each sweep rake, hay rake or hay tedder sold in violation of this paragraph of this contract.

23rd. Said Agent hereby represents that he is solvent and responsible, and this contract is entered into by said Company upon the faith of such representation.

24th. IT IS FURTHER AGREED, that this contract shall, in no case, be valid and binding upon

said Company, of the first part, until the same shall have been approved by the General Agent, and also that it cannot be subsequently changed, in any of its provisions, in any manner, either verbally or otherwise, by any person, without the written approval of the said General Agent.

INTERNATIONAL HARVESTER COMPANY OF  
AMERICA (Seal.)

Approved at ..... 19.....

INTERNATIONAL HARVESTER COMPANY OF  
AMERICA,

By..... General Agent.

By..... Traveling Agent.

..... (Seal.)

..... (Seal.)

#### INSTRUCTIONS.

The following instructions to agents are made a part of the within contract:

1st. We furnish you a reasonable amount of printed matter free of charge, delivered at the express office at Chicago, you to pay express charges on the same. We will not pay for newspaper or other advertisements unauthorized by us, neither will we pay for any printing of any kind whatever, except that furnished by us from our office.

2nd. We will not pay any charges for telegraphing, except for answers to messages sent by us, or unless it be in reference to parts short on machines shipped by us, or a similar case in which we are entirely at fault; and in such cases dispatches may be sent to us C. O. D.

3rd. Our canvassers are sent to assist you and are not invested with authority to change prices or terms; consequently at time of settlement, we shall consider their acts, so far as all matters affecting your contract with us, as having been done by your direction and approval.

4th. You must give every purchaser one of

our printed warranties with each machine you sell.

5th. Should any part of machines shipped you prove defective from flaws, poor material, or bad workmanship, said defective parts may be charged back to us, but in all such cases the broken or defective parts must be exhibited at settlement to the authorized agent of said Company, who shall return them to the General Agent. A complete list of all parts given free must be kept on blanks furnished by us for that purpose, this list at settlement to be subject to the approval of the General Agent herein of this Company, and only such parts will be allowed as are approved.

6th. We do not agree to furnish repairs gratis after the first season, and then only such parts as are needed to replace those that have proved to be defective.

7th. Knives, sickles, sections, canvases, reel-boards, reel-arms, neck-yokes, single-trees, and tongues are not warranted as they are always liable to be broken or damaged by improper usage and Must Never Be Given Free.

8th. You must sell all extras at current list prices and for cash only, and in no case to charge the purchaser more than the list price unless the part or parts are ordered by express especially for him.

9th. You must sell only to the retail trade, and must not, directly or indirectly, sell or offer for sale any machines to parties outside of the within named territory, under penalty of forfeiture of all commissions to the agent in whose territory the purchaser resides; but in no case is the said International Harvester Company of America to be liable for any trespass by one agent upon the rights of another except as said Company, at its option, may first collect the same from said other agent.

10th. You must not exhibit or furnish any



machines received under this contract, for exhibition at any Fair, without the consent of said Company or its aforesaid General Agent.

11th. All men in the employ of this Company are furnished money sufficient to defray their expenses, and we will not be responsible for any money you may advance to them.

INTERNATIONAL HARVESTER COMPANY OF  
AMERICA.

Thereafter the contracts were in substantially the same form except that in those for the year 1906, and subsequent years the fifth paragraph requiring the agent to sell all machines or property received under his contract at such prices as may be fixed in writing by Respondent in his territory and the 22nd paragraph referred to in the pleadings and evidence as "the exclusive clause" were eliminated.

In making these contracts the agent was permitted to select either "The McCormick" "The Deering," "The Champion," "The Plano," "The Osborne" or "The Milwaukee" machines but was generally confined to one line. His commission on the machines and attachments was practically whatever he could get for them above the net price named *to him* in a separate schedule, which was the same for each of the six kinds; on repairs sold he was allowed twenty-five (and later 30) per cent. on the list price at which they were to be sold *by him*. These prices were fixed from year to year and never varied from in the settlement of the agent's account.

In the harvesting machine business the sales of the independent competing companies prior to the organization of the International Company were from an early period conducted by and through commission agents to whom the machines were scheduled at a certain price, at which they were to be sold, but as a result of the competition between them, these prices were frequently reduced as the exigencies of the case seemed to require in order to

effect a sale to the farmer, and the agent was allowed his commissions on the price for which he actually sold, and for which he was only required to account. This cutting of prices was the root of the manifold evils of which the manufacturers complained and for which a remedy was sought and found in the organization of the International Harvester Company. Its fruits however from the standpoint of the farmer might not have been regarded as unmixed evil since during those years he found the prices of these machines continually decreasing and that for a six foot binder for which in 1879 he had to pay \$340.00 in 1881—\$275, in 1885—\$240; in 1892—\$140; he could in 1902 have bought for \$125, and for a mower for which he had to pay \$90 in 1878 he could in 1902 have bought for \$40. The prices at which these machines were scheduled by the Respondent to its agents the retail dealers in 1903 were about the same as those of the independent competing companies for the preceding season and these prices were continued until the year 1908, when the price of the Harvester or Binder for that season was raised from \$100 to \$107.50 with an extra charge of \$3 for the transport truck making an increase thereon of \$10.50. For cash a discount of five per cent. and two per cent. on the price except for that of the transport truck was allowed, making cash price \$100.08—truck \$3 or \$103.08 while in 1902 the cash price on binder and truck was only \$95 making an increase of \$8.08; at the same time a corresponding increase was made in the price of Mowers. During these years, say from 1902 to 1908, inclusive, the price of labor and material and of all other agricultural implements was gradually increasing until the average per cent. of increase on all other agricultural implements was quite as large and on many implements larger than the increase made by Respondent for the year 1908 on its machines; the difference being that the increase in

other agricultural machines and implements was gradual from year to year and that on Harvesters or Binders and Mowers was made all at one time for the season of 1908.

It does not appear from the evidence that the Respondent under the fifth paragraph of the contracts aforesaid ever fixed the price at which its machines were to be sold to the farmer, and it does appear that there was a lively competition between the agents to make sales, and that the competition sometimes resulted in cutting the price fixed by the retailer as his selling price which in the main corresponded with the general selling price of other agents in the community. This cutting was exceptional however and necessarily within very narrow limits since the agent had to account to Respondent for the price fixed by it in his schedule whatever price he might have sold for:—so that whatever cut he might make would come out of his commission and would in no way diminish the profit of the respondent whose prices to him were never cut.

The Respondent however discouraged the practice and through its representatives recommended the maintenance of uniformity of prices.

It does not appear from the evidence that the Respondent ever enforced the 22nd paragraph of the contracts aforesaid by exacting the penalties therein provided for. But it does appear that after that paragraph had been eliminated from the contracts that in two instances the agency was taken away from the dealer because he had taken an independent machine. One instance in which a renewal was refused because the agent had contracted for an independent machine, and three instances in which revocation of their agencies or other trade evils were threatened if the agents took independent machines, generally however both before and after the elimination of this paragraph from the contracts the re-

spondent agents when so inclined handled machines and agricultural implements other than those of the Respondent, and sold its products to customers wherever found without much regard to territorial limitation and without objection or interference upon the part of the Respondent.

The Respondent having fixed the price for which the retail dealer must account to it for each machine and implement sold, it was a matter of no interest to it, where, to whom, or for what price the same was sold.

None of the machines and agricultural implements manufactured by the International Harvester Company and sold by the Respondent are manufactured in Missouri. The basic patents on the several harvesting machines manufactured and sold by them had all expired prior to the year 1903. But minor improvements are continually being made and the machines today are better, more simple and durable than they ever were. The facilities for obtaining repairs have also been improved and the insurance on the goods in the hands of the local dealer formerly borne by them, is now carried by the Respondent.

In every city, town, village and hamlet in the State where there is a demand, respondent's machines and agricultural implements are handled and sold by one or more retail dealers under contracts similar to the one hereinbefore set out. The price of each brand of harvesting machine is the same as the others, the same to all retail dealers with whom they contract and to whom only they are furnished by the Respondent by whom the prices are fixed for each season, and when fixed and scheduled to the dealer the prices are never varied from.

The Respondent's only business is to sell the International Harvester Company's products, and if at any time they furnish the products of any other

manufacturers it is simply an incident of that business, and as an aid thereto.

The International Harvester Company's products are sold to and by the Respondent only and for that purpose only does it exist. This corporation and its stockholders once had capital, now it has none, everything that it or its stockholders once had now belongs to the International Harvester Company and while the latter furnishes a board of directors and officers for it, makes paper contracts, and keeps accounts with it as though it were a real corporation and had some interests of its own, these contracts in reality are mere paper contracts of this International Harvester Company with itself, a mere system of bookkeeping by which the appearance of a separate corporate entity for the Respondent is maintained by the International Harvester Company for the purpose of securing an entrance for its business into the State of Missouri, and other States where it could not enter "*in propria persona*" by reason of its enormous capital.

The Respondent in truth and in fact is a mere sales department of the International Harvester Company, its existence as a separate corporate entity is a mere fiction to evade the laws of this and other States whose policy is not to encourage such a vast accumulation of wealth and power in the hands of a few as may endanger the welfare and prosperity of the many, whose policy is to keep open the field of commercial and industrial enterprise, as far as may be to all its citizens.

The negotiations which led up to and resulted in the agreement for and the organization of the International Harvester Company and the combination of all the property and interests of these five companies in that corporation were conducted and concluded by George W. Perkins of the firm of J. P. Morgan and Company representing that Company

and the Respondent; Cyrus H. McCormick, President of the McCormick Harvester Company; Charles Deering a member of the firm of The Deering Company; William H. Jones, Vice-President of the Plano Company, and John J. Glessner, Vice-President of the Warder, Bushnell & Glessner Company whose acts in that behalf were thereafter sanctioned and approved by the stockholders of those companies and the partners of Mr. Deering. All of these gentlemen except Mr. Deering voluntarily appeared and freely testified in the case at the request of The Attorney General. Their evidence fully set out in the Transcript and Printed Abstracts is analyzed and also discussed in the briefs of counsel and this process need not be repeated here. They are all gentlemen of marked intelligence and ability, a Finance Expert and four Captains of Industry, who fully understand the business in hand and the means by which their purposes were to be accomplished. Mr. Perkins the efficient agent and mouthpiece of each, by separate negotiations with each, brought on the agreement of the 28th of July, 1902, manifested by the separate contract on that day formally signed at the same time and place and in the presence of each other. While there was no formal agreement *inter sese* in writing or otherwise, the tacit agreement is as apparant upon the face of their proceedings as if in black and white. The agreement took the form of a sale by each Company of all its property through an individual to a corporation to be thereafter organized in which all the property and interests of these five competing companies were to be vested, combined and controlled by them for their mutual profit. The trade evils against which these gentlemen bitterly inveigh were simply the concomitants and consequences of the competition which existed between these companies and while expansion was also a result contemplated as evidenced by their en-

listing some outside capital, the prime object and motive obvious on their own evidence and all the facts and circumstances was the elimination of the existing competition between themselves, and such other competition as might be brought into the combine, and thereby secure control of the market in their products. The organization of the International Harvester Company by these independent competing companies was intended to and did stifle competition to that extent.

The character of the combination was not changed by the fact that the representative of the Respondent Mr. Perkins owing to his connection with great financial interests was enabled to and did enlist additional capital in the enterprise to more effectually carry out the purposes of the project. The purposes were those of the corporations who contributed five-sixths of the capital, for carrying them out and retained control for that purpose.

At the time the International Harvester Company was incorporated and the Respondent was licensed to do business in this State, said Company by reason of the large amount of its capital stock could not have been organized or licensed to do business in this State R. S. 1899, Secs. 1316 & 1320 and the Respondent has been maintained by it as a corporate entity for the reason that certain states wholly excluded from doing business therein corporations having so large a capital stock, and other states imposed a license fee based upon the total amount of the capital stock and not on the amount of capital invested within the State.



### Findings of Law.

The gravamen of the charge contained in the information is that the International Harvester Company is a pool, trust, agreement, combination and arrangement created and organized by the Respondent and its competitors in the manufacture and sale of agricultural tools, implements and machinery for the purpose of restraining trade, lessening competition, regulating, controlling and fixing the prices and limiting and fixing the output of agricultural implements, tools and machinery sold and offered for sale in Missouri and that such has been the effect thereof.

That in furtherance of such purpose the Respondent has been maintained by the International Harvester Company as a corporate entity for the sole purpose of making sales of all its products and that for the purpose of preventing competition and giving said Company a monopoly of said business the Respondent has compelled its retail dealers in each county of the State to handle and sell only the products of said Company and to refrain from handling and selling the products of any competitor thereof. That by reason of Respondent's participation in such pool, trust, combination and agreement it has been guilty of a wilful and malicious perversion and abuse of the franchises, privileges, license and authority granted to it by the State of Missouri and of the usurpation of privileges not granted.

Wherefore Relator prays that the Respondent may be excluded from all corporate rights, privileges and franchises enjoyed by it under the laws of Missouri, that its franchise, license and certificate to do business in the State be forfeited and that all or a portion of its property be confiscated or in lieu thereof a fine be imposed.

The law governing the case is contained in Sec-

tions 8965, 8966, 8967, 8971, and 8978 Revised Statutes, 1899.

Under the provisions of this Statute any corporation organized under the laws of another State licensed by, and doing business in this State who creates, enters into, becomes a member of, or a party to any pool trust, agreement, combination, confederation or understanding, to lessen, or which tends to lessen full and free competition, to regulate, control or fix the price, or to limit the output, or to place the management or control of such combination in the hands of trustees with intent to fix the price, or limit the output of any article, product or commodity of manufacture, mechanism, merchandise, or commerce is guilty of a violation of its provisions, and such a corporation is also guilty of a violation of its provisions if it enters into any contract, agreement or understanding with any other corporation or person to deal in, sell or offer for sale in this State any such article, product or commodity, and not during the continuance thereof to deal in, sell or offer for sale in this State any competing article, product, or commodity.

1st. The first contention of the Attorney General is that "The organization of the International Harvester Company was brought about to restrain competition and is illegal, its effect being not only to restrain competition but to create a monopoly" and in support of this contention a vast number of cases and authorities are cited, and an able and exhaustive brief filed.

As a result of the many adjudications on this and similar statutes the general law on the subject is thus stated in the last edition of a standard work on Corporations:

"The law is clear that any combination of competing concerns for the purpose of controlling prices, or limiting production or suppressing competition, is contrary to public policy and is

void. This principle of law has been applied with great rigor to some of the trusts. The two leading cases on the subject are the Sugar Trust decision in New York and the Standard Oil Trust decision in Ohio. Many cases showing the different circumstances under which this rule has been applied are given in the notes below, arranged in the alphabetical order of the various states.

These cases indicate the complicated questions and important litigation that have arisen by reason of the trusts. During the past six years the volume of such litigation in the state courts has decreased, but has rapidly increased in the Federal Courts, in applying the anti-trust act of congress of July 2, 1890. Most of the great trusts have been driven from their original mode of organization and have reorganized by conveying all their property to a corporation organized for the purpose of taking over the property. Such has been the case with the Sugar Trust, The Standard Oil Trust and the Cotton Seed Oil Trust. The decisions of the New York Court of Appeals against the Sugar Trust, and of the Supreme Court of Ohio against the Standard Oil Trust convinced the trusts that their original mode of organization was illegal and must be abandoned. The result has been that the trusts for the most part reorganized and reappeared in the form of gigantic corporations." 2 Cook on Corporations, Par. 503 (a) 1. c. pp. 1330-1338. In a note the author cites cases from this and 23 other states.

The International Harvester Company was organized by the Respondent and four other competing corporations conveying all their property to a corporation organized for the purpose of controlling prices and suppressing competition. It was a combination for that purpose for the reason that the effect of the organization was to stifle competition between the competing corporations who were parties

thereto one of which was the Respondent, and tending to suppress competition by putting into a gigantic corporation the power to suppress competition between such corporation and other competitors. In the language of our Statute a combination "made with a view to lessen, or which tends to lessen full and free competition," is obnoxious to its provisions; such a combination restrains trade and tends to create a monopoly, as said in an able and exhaustive opinion citing a host of authorities:—

"To say that a combination restrains trade and prevents competition is a repetition of the same idea, the giving of two names to the same thing. Whatever restrains trade prevents competition, and whatever prevents competition in trade necessarily restrains trade. The word 'monopoly' which plays so great a part in the law, conveys the same idea, because where there is monopoly there can be no competition. Production, and hence prices, are under the control of the monopolist, to the possible and probable injury of the public. Freedom of trade requires competition. Without one the other cannot exist, and whatever restrains the one restricts the other. It is true that unrestrained and unregulated competition may destroy what it is designed to preserve; but the theory of law and legislation still is that the welfare of the public requires that competition in trade and commerce shall exist, in order that freedom of trade may be maintained. \* \* \* Where the statute prohibits a specific thing, that fact, of course, furnishes an all sufficient reason for the decision, and, as the state statutes generally go more into detail than the federal statutes the state decisions are less controlled by general considerations. When the legality of the particular act is to be tested by whether it violates general statutory prohibitions upon restraints of trade or commerce, the courts give various reasons for

their conclusions. Different forms of expression are used; but, when reduced to the lowest terms, it seems that if any one thing may be said to be the test, it is the effect upon competition. Combinations are not *per se* illegal, any more than are contracts, agreements, and understandings generally; but, when the purpose of either is to destroy competition in trade or commerce, the particular transaction falls within the prohibitions of the anti-trust statute. The acts which are specifically forbidden by the statute are contrary to the public policy of the state because they are thus forbidden (*Stewart v. Erie & W. Transp. Co.*, 17 Minn., 348, and the effect upon competition furnishes a reasonably accurate test for cases which arise under the general language of the statute. The definition of monopoly involves the same principal, and contracts and combinations which tend to create a monopoly are against public policy, and therefore illegal, because they deprive the community of the benefits of competition and thus place the power to control production or fix prices in the hands of a few persons." *State v. Duluth Board of Trade*, 107 Minn., 506; 1. o. 523 & 543.

The fact that our Statute is specific and under it, not only, combinations to regulate and fix prices or to limit production, but all combinations made with a view to lessen or which tend to lessen full and free competition are condemned, make it unnecessary to review the many cases cited in the briefs of counsel construing general terms in the Federal Statutes and those of many of the States, at all times keeping in mind however that not all combinations which tend to, or the effect of which is to lessen competition are condemned, but only those combinations that are entered into for that purpose. It is the purpose that vitiates in the eye of our Statute.

Respondent's first contention is "that the Anti-trust Statutes of Missouri do not prohibit a person

or corporation from purchasing the properties of rivals and thereby increasing the purchasers trade though this incidentally lessens trade" may be conceded. In the opinion of Fox, J., in *State v. Continental Tobacco Co.*, 177 Mo., 1., 1. c. 32 cited and quoted from in support of this proposition, it is said "The terms of this Statute are not broad enough to prohibit one corporation in good faith in the legitimate pursuit of its business from purchasing the assets of another corporation." But that is not this case; there was no purchaser here in the pursuit of the legitimate business of these corporations. Lane was not in such pursuit, and was a mere conduit a figure head for the transaction. The Harvester Company was not in existence, but was to be called into existence for the purpose of assuming the role of ultimate purchaser upon the terms prescribed for it by the vendors, and of course was not in the pursuit of legitimate or any business.— A sale of necessity involves vendors on one side and vendees on the other who can negotiate and agree on terms. There is no such thing as a one sided sale nor can there be a *bona fide* one where the vendors and vendees are practically one. It is vain, in the light of the facts, to attempt to disguise this combination as a sale in good faith. The form of a sale was adopted for the sole purpose of effecting a combination of the property and interests of these competitors in business. This and the other cases cited under this head are not in point. The consolidation statutes cited in this connection give no countenance to such a combination.

It is next contended that "The Anti-Trust statutes clearly show upon their face that they are not designed to limit freedom of an individual or a corporation in dealing with their property so long as there is no concerted action to the injury of others." The injury to others contemplated by the statute and ap-

parent upon its face is a combination which "lessens or tends to lessen competition, regulates or controls prices, or limits production." Of course such a combination could be created only by concert of action, and in this connection it is then contended that "There was no combination, agreement or understanding between the vendors whose properties were acquired by the New Jersey Company. Each of them acted independently of the others in the selling of its property. Each of the Companies whose plants were purchased was free after such sale, if it so desired, to continue in the business, the mere lessening of the number of selling companies did not restrain trade or competition."

Such combination, agreement or understanding may be as conclusively proven by facts and circumstances as by direct written evidence. *State ex rel v. Firemen Fund Ins. Co.*, 152 Mo., 1. c. 40. While the separate written contracts executed on the 28th of July, 1902, by the five competing harvester companies present no evidence on their face of such an agreement, and were intended to present none. The fact that the terms of each were the same, that they were signed at the same time and place, in the presence of each other by the representatives of each Company after long previous negotiations with each of them by one of their number to bring about just such an agreement. That these representatives were shrewd intelligent, business men, who knew precisely what their acts would accomplish, and what each desired to be accomplished, *i. e.*, the combination of all their properties in one gigantic corporation under their control;—together with all the facts and circumstances leading up to and attendant upon the transaction, and the character of the transaction itself, furnish as satisfactory proof of the agreement as if the fact had been formally expressed in writing. It borders on irony to say that each of these



companies after it parted with all its property, with its stock tied up, if not absolutely parted with, and without a cent of capital, could have entered into competition with this mighty corporation, it jointly with its competitors had created for their common interest, or would attempt to do so. Each was as effectually restrained from doing so as if bound by contract in writing not to do so.

It is next contended that the methods which prevailed in the harvester trade prior to 1902 were not the competition which the Anti-trust statutes were enacted or designed to protect. It is sufficient to say in answer to this contention that our Statute makes no discrimination between the methods of competition which it protects.

The next point: That "the magnitude of the business and the proportion of the trade secured do not bring a corporation within the prohibitions of the anti-trust statutes" may be conceded. But these facts may well be taken into consideration in determining the purpose for which the combination was entered into. Of course there was nothing in the Charter of the New Jersey Company or on the face of any of the written contracts under which it acquired the properties of the competing companies indicating a purpose to fix prices, restrain output, or stifle competition. So far as form is concerned The International Harvester Company appears upon the scene as a purchaser of the properties of these competing Companies, but the fact remains on the face of the whole transaction that these Companies were simply selling their property to themselves in the form of that corporation in order to effect a combination that would stifle competition between themselves and give them power to further stifle competition between themselves and others. The Attorney General is not complaining of the methods by which the Company was organized but of the purpose for which it

was organized, and in this connection it may be as well to state in answer to another of Respondent's points that the placing of the stock of the New Jersey Company in the hands of Voting Trustees is alleged in the replication only as an act in furtherance of the purposes of the combination and if it has no significance in that respect, it has none whatever, and the discussion of its lawfulness is unnecessary.

2. It is next contended by the Relator that the Respondent has also violated the Anti-trust Statute by entering into an agreement to buy from no company except The International Harvester Company and by entering into exclusive agency contracts with local dealers of the State requiring them to sell only in a limited territory and at prices arbitrarily fixed by it."

I fail to find from the evidence that the Respondent ever entered into an agreement to buy from no company except the International Harvester Company. It would be a strained construction of the written contract between the Respondent and that Company to so hold—and while during the years 1903, 1904 and 1905, the Respondent by the 5th paragraph of its contracts for those years with its commission agents required them to sell at such prices as might be fixed in writing by the Respondent, and in a territory mentioned in the contract, the territory was always indefinite and I fail to find that the Respondent during those years or at any time fixed the prices at which sales should be made by the local dealers in writing or otherwise. The prices which the Respondent did fix and which were never varied from were the prices to the local dealers. This paragraph and the instructions in regard to territory while in the contracts was never enforced but wholly ignored both by the Respondent and the local dealers, and may be dismissed from further consideration. It seems to have been inadvertently carried over

from the former contracts of the companies when independent as respondent had no occasion for it after adopting the policy of fixing an unvarying price to the retail dealer for which he must account.

By the 22nd paragraph of the contracts of 1903, 1904 and 1905 Respondent's agents were required not to accept the agency for or be interested in the sale of any grain binder, header, corn binder, husker, and shredder, reaper, mower, stacker, sweep rake, hay rake, or hay tedder other than those manufactured by the International Harvester Company. This paragraph of the contracts was in violation of the second clause of Section 8966 R. S. 1899. But as it appears from the evidence that this paragraph has not been in the contracts since 1905 and no instance of any attempt to enforce it was made during the period that it was in the contracts, the violation was purely technical. The few isolated and exceptional instances mentioned after this paragraph was eliminated from the contracts are too trivial and insignificant, in view of the general conduct of the Respondent's business in this respect, to warrant a forfeiture of Respondent's license on this account.

3. The Relator's next contention is that "The secret arrangement by which The Osborne Company, The Minnie Company, The Aultman & Miller (Buck Eye) Company and The Keystone Company were acquired and operated during the three years following the organization of the International Harvester Company was itself illegal and alone sufficient to warrant a revocation of Respondent's license." The fact is that these companies were operated ostensibly as independent companies for about two years after the International Harvester Company had acquired their properties as heretofore stated. They were acquired by purchase, and there was nothing illegal therein. That negotiations for their purchase was entered into at the time or soon

after the organization of the International Harvester Company and promptly consummated, is only one of the many facts tending to show that the purpose of that organization was to stifle competition and get control of the trade in harvesting machines and agricultural implements. That they were permitted to be operated as independent companies for about two years after their acquisition by the International Harvester Company was the act of that company, and not of the Respondent, and for which the Respondent cannot be held responsible. The International Harvester Company is not a party to this suit, and there is no such issue in the pleadings.

4. The next contention of the Relator is that the Respondent has violated the fundamental law governing corporations by entering into a partnership. The relation that Respondent sustains to the International Harvester Company has been heretofore stated and manifestly upon any theory founded upon the evidence is not that of partners.

5. The Relator's next and last contention is that Respondent's license should be revoked, upon the ground "that it has ceased to perform the functions for which it was licensed, and is permitting itself to be used in evasion of the Missouri law which precludes the International Harvester Company from doing business in this State." The answer to this contention will be found in my conclusion on the whole case.

### **Conclusion.**

I find that the International Harvester Company is a combination and arrangement created and organized by the Respondent and its competitors in the manufacture and sale of agricultural implements, tools and machinery for the purpose of restraining trade, lessening competition, regulating, controlling

and fixing the prices of agricultural implements, tools and machinery sold and offered for sale in Missouri. That in furtherance of the purposes aforesaid the Respondent has been and is maintained by the International Harvester Company as a separate corporate entity for the sole purpose of making sales of its products, and for that purpose the Respondent obtained license to do business and make such sales in the State of Missouri, in evasion of its laws which preclude the International Harvester Company from obtaining such license, and by means thereof has secured a practical monopoly in the sale of Harvesters or Binders, a near monopoly in Mowers and power to secure a further monopoly in the sale of agricultural tools, implements and machinery in this State.

That Respondent by becoming a member of, and a party to such combination and arrangement, and in thus furthering the purposes thereof by the evasion aforesaid has been guilty of a violation of the aforesaid sections of the statute law of this State and has incurred the penalty therefor prescribed in Section 8971 of said Statute, and that I fail to find in the evidence any other substantial ground upon which Respondent's license, right and privilege to do business in this State should be forfeited.

THEODORE BRACE.  
*Special Commissioner.*

UNITED STATES OF AMERICA, *set*:

The President of the United States to the Honorable the Judges of the Supreme Court of Missouri, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Supreme Court before you, at the October term 1911 thereof, between the State of Missouri, on the information of its Attorney-General, and International Harvester Company of America, a corporation, a manifest error hath happened, to the great damage of the said the International Harvester Company of America, as by its complaint appears;

We being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this Writ, so that you have the same at Washington, D. C., not exceeding thirty days from and after the date of signing the citation in this cause, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness, the Honorable Edward D. White, Chief Justice of the Supreme Court of the United States, this Sixth day of December, in the year of our Lord, Nineteen Hundred and Eleven.

Issued at office in the City of Jefferson, with the seal of the Circuit Court of the United States for the Central Division of the Western District of Missouri, dated as aforesaid.

[Seal of the United States Circuit Court for the Western District of Missouri, Central Division.]

H. C. GEISBERG,

*Clerk Circuit Court of the United States, Western  
District of Missouri, Central Division.*

Allowed this sixth day of December, 1911.

LEROY B. VALLIANT,

*Chief Justice Sup. Ct. Mo.*

Which said writ of error was filed in the office of the Clerk of the Supreme Court on the 6th day of December 1911 and a copy thereof lodged in said office for the relator on January 6th 1912.

J. D. ALLEN, *Clerk.*

STATE OF MISSOURI, *set*:

I, J. D. Allen, Clerk of the Supreme Court of the State of Missouri, in obedience to the mandate of the within writ, herewith transmit to the Honorable Supreme Court of the United States, a full, true and complete transcript of the record and proceedings in the

within entitled cause, as fully as the same remain of record in my office and as is contained in Vols. I, II & III, pages 1 to 973 herewith filed.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at my office in the City of Jefferson, this 2 of Jan'y, 1912.

[Seal of the Supreme Court of Missouri.]

J. D. ALLEN,  
*Clerk Supreme Court of Mo.*

[Endorsed:] Filed December 6, 1911. J. D. Allen, Clerk.

UNITED STATES OF AMERICA, *set:*

To the State of Missouri and its Attorney-General, Elliott W. Major;  
International Harvester Company of America, a Corporation:

You are hereby cited and admonished to be and appear in the United States Supreme Court, at the City of Washington, D. C., thirty days from and after the date this citation bears date, pursuant to a Writ of Error filed in the clerk's office of the Supreme Court of Missouri, wherein the International Harvester Company of America is plaintiff in error, and State of Missouri, at the relation of the Attorney-General, is defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said Writ of Error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable Leroy B. Valliant, Chief Justice of the Supreme Court of Missouri, this Sixth day of December, in the year of our Lord, Nineteen Hundred Eleven.

LEROY B. VALLIANT,  
*Chief Justice Supreme Court of Missouri.*

I hereby acknowledge due service of the above citation this 6th day of December 1911.

ELLIOTT W. MAJOR,  
*Attorney General of the State of Missouri.*

[Endorsed:] Filed December 6, 1911. J. D. Allen, Clerk.

STATE OF MISSOURI, *set:*

Be it Remembered, that at the October Term, 1907, of the Supreme Court of Missouri, and on the 12th day of November, 1907, in a certain cause entitled State of Missouri, ex inf. Herbert S. Hadley, Attorney-General, informant, versus International Harvester Company of America, Respondent, an information in the nature of quo warranto was filed, which said information is in words and figures as follows: to-wit:

(See page 1 of printed record.)



And thereafter, to-wit, on the same day, the Court made and entered of record, the following:

*TUESDAY, November 12, 1907.*

14546.

STATE ex Inf. Att'y Gen., Inf.,

vs.

INTERNATIONAL HARVESTER COMPANY, Resp.

Comes now the said informant and files his information in the nature of Quo Warranto herein; which said information being seen by Hon. Jas. B. Gantt, Chief Justice of this Court, it is ordered that a rule to show cause issue herein, said rule to be returnable on December 15, 1907.

(See p. 8 of printed record.)

And thereafter, to-wit, on the 6th day of January, 1908, the Court made and entered of record the following:

14546.

STATE ex Inf. Attorney General, Inf.,

vs.

INTERNATIONAL HARVESTER COMPANY, Resp.

Comes now the said respondent, by attorney, and files its answer and return herein.

(See page 9 of printed record.)

And thereafter, to-wit, on the 25th day of January, 1908, the Court made and entered of record, the following:

14546.

STATE ex Rel. Att'y Gen'l, Rel.,

vs.

INTERNATIONAL HARVESTER COMPANY, Resp.

Comes now the said relator, by attorney, and files his reply to the return of the respondent herein; and also files his motion for the appointment of a commissioner herein.

(See page 36 of printed record.)

And thereafter, to-wit, on the 4th day of May, 1908, the Court made and entered of record the following:

14546.

STATE ex Inf. Attorney General, Inf.,  
 vs.  
 INTERNATIONAL HARVESTER COMPANY OF AMERICA, Respondent.

Now at this day it is ordered by the Court that this cause be and the same is hereby continued to the October Term of this Court.

And thereafter, to-wit, on the 27th day of October, 1908, the Court made and entered of record, the following:

14546.

STATE ex Inf. Attorney General, Inf.,  
 vs.  
 INTERNATIONAL HARVESTER CO. OF AMERICA, Respondent.

Now at this day it is ordered by the Court that said cause be and the same is hereby continued for the report of the Commissioner herein.

And thereafter on the 27th day of April, 1909, the Court made and entered of record the following:

14546.

STATE ex Inf. Att'y Gen'l, Inf.,  
 vs.  
 INTERNATIONAL HARVESTER COMPANY OF AMERICA, Resp.

Now at this day it is ordered by the Court that the said cause be continued to the October Term, 1909, for the report of the Commissioner herein.

And thereafter, to-wit, on the 26th day of October, 1909, the Court made and entered of record the following:

14546.

STATE ex Inf. Att'y Gen'l, Inf.,  
 vs.  
 INTERNATIONAL HARVESTER COMPANY OF AMERICA, Resp.

Comes now the Attorney General, and upon his motion, it is ordered by the Court that this cause be continued to the April Term, 1910, for the report of the Special Commissioner.

And thereafter, to-wit, on the 18th day of January, 1910, the Court made and entered of record the following:

14546.

STATE ex Inf. Att'y Gen'l, Inf.,  
 vs.  
 INTERNATIONAL HARVESTER CO. OF AMERICA, Resp.

Now at this day it is ordered by the Court that the said cause be continued to the April Term 1910.

And thereafter, to-wit, on the 26th day of April, 1910, the Court made and entered of record the following:

14546.

STATE ex Inf. E. W. MAJOR, Att'y Gen'l, Inf.,  
 vs.  
 INTERNATIONAL HARVESTER COMPANY, Respondent.

Now at this day, it is ordered by the Court that this cause be, and it is hereby continued to the October Term, 1910.

And thereafter, to-wit, on the 6th day of September, 1910, the Court made and entered of record the following:

14546.

STATE ex Inf. Att'y Gen'l, Inf.,  
 vs.  
 INTERNATIONAL HARVESTER COMPANY OF AMERICA, Resp.

Comes now Hon. Theodore Brace and files his report as Special Commissioner herein.

(See page 321 of printed record.)

And thereafter, to-wit, on the 20th day of September, 1910, the Court made and entered of record the following:

14546.

STATE ex Inf. Att'y Gen'l, Inf.,  
 vs.  
 INTERNATIONAL HARVESTER COMPANY OF AMERICA, Resp.

Comes now the said respondent, by attorney, and files its exceptions to the report of the Special Commissioner herein.

In the Supreme Court of Missouri.

STATE OF MISSOURI ex Rel. Att'y Gen., Relator,  
vs.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, Respondent.

*Respondent's Exceptions to the Commissioner's Report.*

Exceptions to Findings of Fact.

Now comes the respondent and excepts to the Report and findings of the Commissioner, filed September 6, 1910, and, for grounds of exception, assigns the following, to-wit:

First. Because the finding of the Commissioner, that the transfers of the properties of the five harvester companies to the International Harvester Company, of New Jersey, mentioned in the report, were not bona fide sales of physical properties, but were an unlawful conspiracy and combination between such vendors, is unsupported by, and contrary to, the evidence.

Second. Because the finding of the Commissioner, that the purpose and effect of the agreements of July 28, 1902, and the transfers of property pursuant thereto, was to destroy competition between the vendors, and to obtain a control and monopoly of the lines of machines manufactured by said vendors, is unsupported by, and contrary to, the evidence.

Third. Because the finding of the Commissioner, that respondent is a mere sales department of the International Harvester Company, of New Jersey, and is maintained by said New Jersey Company for the purpose of conducting in Missouri its business which it, because of its large capital stock, is prevented from doing, and is not a separate and distinct corporate entity, is unsupported by, and contrary to, the evidence, which shows respondent was maintained for the purpose of complying with, and not for the purpose of evading the laws of Missouri.

Fourth. Because the finding of the Commissioner, that the International Harvester Company, of New Jersey, has secured a practical monopoly in the sale of harvesters or binders, a near monopoly in mowers, and power to secure a further monopoly in the sale of agricultural implements, tools and machinery in this state, is unsupported by, and contrary to, the evidence.

Fifth. Because the evidence established, and the Commissioner should have found, the following facts, which he was duly requested by respondent, on July 13, 1910, to find:

1. For a number of years immediately preceding and in 1902, there existed a state of commercial warfare in the trade in binders and mowers different from that in any other line of business. (89, 90. See note.) A large part of the companies which before that time had been engaged in making and selling these machines by the methods then prevailing had been forced into bankruptcy or compelled to dispose of their properties (66, 71, 90). The practices

indulged in were described, by witnesses who had participated in them, as constituting a "guerrilla warfare,"—"a ruinous rivalry,"—in which the effort to prevent or break up sales by others was as great as to make one's own sales (66, 80, 81, 83, 100, 101, 123). This resulted in discriminatory prices as between persons and localities (92, 116). The shrewd or large buyer got low prices, while smaller buyers paid higher prices (116). The struggle was carried so far that some of the harvester companies authorized their agents to break up completed sales made by other companies and to guarantee the farmer protection against litigation for breaking his contract (89, 100, 101). These methods were wasteful, and made the hazards of the business great and only the two largest companies were making any profits (19, 81, 86, 102).

2. In June, 1902, Cyrus H. McCormick, President of the McCormick Harvesting Machine Company, became convinced that the price of harvesting machines must be raised or a way must be found for keeping down the rapidly increasing cost of manufacture, and that, to do the latter, his Company would have to obtain additional capital, so that it could acquire its own raw materials (69, 70). Thereupon Mr. McCormick, acting for his Company alone, consulted George W. Perkins about obtaining additional capital to enable his Company to purchase timber and mining properties and other raw materials necessary for the manufacture of binders and mowers (49). At this interview, the condition of the harvester business in the United States was fully discussed, as well as the needs of the McCormick Company, but no plan for furnishing the additional capital to the McCormick Company was reached (24).

3. Shortly after this Mr. Perkins decided to organize a new company, to engage in the harvester trade, and when Mr. McCormick returned, in July, 1902, to get his answer as to additional capital, Mr. Perkins suggested that, instead of furnishing such capital, he would like to buy the McCormick plants, properties and business (50, 150).

4. Mr. Perkins' plan was to purchase the properties and business of the Milwaukee Harvester Company, which was known to be for sale, and of the McCormick Company, if he could obtain them, whether he obtained others or not (150).

5. Mr. Perkins negotiated with the representatives of the McCormick Company, and, later, he opened negotiations separately with the representatives of the Deering Company, the Plano Company and The Warder, Bushnell & Glessner Company, known as the "Champion" Company, for the purchase of their plants and physical properties, respectively (148, 76, 84).

6. These negotiations were carried on by Mr. Perkins separately with the owners of the several properties, without any conference or consultation between such separate owners, and without the knowledge on the part of the representatives of any one of the Companies of his negotiations with the representatives of the other Companies; and there was no contract, agreement, or understanding between said companies (21, 22, 76, 79, 81, 84, 148, 150, 154, 155).

7. As a result of these various negotiations, Mr. Perkins first acquired an option, and afterward purchased, for cash, the respondent

herein, and subsequently made formal contracts with the other Companies for the purchase of their plants and properties on behalf of the new company which he was to organize (28, 103, 150, 151).

8. On July 28, 1902, the representatives of the McCormick, Deering, Plano and Champion Companies met for the first time at the office of Perkins' attorney to execute the several contracts evidencing the trades which theretofore had been separately made and completed by the representatives of each Company with him; the terms and conditions of each contract being, at the time of their execution, known only to the representatives of the Company making the contract; and nothing was done at that meeting beyond the formal execution of the contracts covering the bargains theretofore separately completed with each (21, 22, 79, 81, 84).

9. The purchase price of the Milwaukee Company was paid all in cash (67). The plants of the McCormick and Plano Companies were paid for entirely in stock of the new company, and representatives of these companies subscribed for additional amounts of such stock (51, 52, 79); while the plant of the Champion Company was paid for partly in cash and partly in the stock of the new company (84).

10. Only the physical properties and plants of the McCormick, Deering, Plano and Champion Companies were purchased. Neither their capital stock, nor their receivables, was sold to Perkins or the new company, but they were pledged as security for the fulfilment of the terms of the contract of sale (51, 77, 85, 128, 149).

11. The several contracts of purchase, by their terms, left the organization of the new Company (called the purchasing company) entirely to Mr. Perkins, except the provision fixing the amount of its capital stock and requiring that no stock should be issued except for cash, at par, or for properties of equal value, such value to be determined by independent appraisal (28, 35).

12. That, at the time of the execution of these contracts, neither the name of the new company nor the number nor personnel of its directorate nor of its officers was known; but all these matters—the name of the corporation, the directors and officers—were subsequently and independently determined upon by Mr. Perkins, the vendee of the various properties (25, 154, 155).

13. Of the eighteen members finally composing the directorate of the new company which Mr. Perkins organized, nine of them were men who had never been engaged or interested in the manufacture of harvesting machinery, but were entirely independent of any of the vendor companies; and they, with J. P. Morgan & Company, invested, in the stock of the new company, \$20,000,000 in cash. No one of the officers or directors of the respondent company became either a director or officer of the new company (36, 37, 51, 74, 155).

14. Mr. Perkins organized the International Harvester Company in order to engage in the manufacture of agricultural implements, and made the purchases of the five different plants and properties in order to equip it for that business (151, 152). These purchases were made as a result of separate negotiations and independent trading with the representatives of each company. All the representatives

of the vendor Companies who were called as witnesses—Messrs. McCornick, Glessner and Jones,—testified that there was no consulting or co-operation or understanding between them, but that they made their bargains with Perkins independently, each making his own trade and fixing his terms without knowledge of the negotiations or the trades he was making with the others (20, 76, 79, 84, 148, 150). Mr. Perkins, representing himself and his financial associates, invested \$20,000,000 of new capital in the corporation and business which he organized and of which, under the terms of the various contracts which he made, he had the chief management and control. The participation, afterward, of such of the officers of the Companies whose properties were purchased as Mr. Perkins desired was determined by him, and not by them. He organized the company, chose its name, its board of directors, and the voting trustees, in whose possession, for voting purposes, all the stock of the corporation was to be placed (25, 51, 154, 155).

\* \* \* \* \*

16. The total capital stock of the new company was \$120,000,000, of which no part was issued for the good-will of the businesses purchased or for the prospective earning-power of such properties and businesses, but only for cash and for the cash value of the actual tangible properties acquired (67, 68, 69).

17. Afterward, in 1903, 1904 and 1905, the new company, the International Harvester Company, of New Jersey, acquired the plants and physical properties of the Osborne Company, the "Minnie" Company, the Aultman-Miller Buckeye Company, the Keystone Company, the Kemp Manure Spreader Company and the Weber Wagon Company, and paid for all of them in cash and the promissory notes of the new company. These purchases were all made, not pursuant to any original plan, but in order to meet the manufacturing and market requirements of the New Jersey Company as they appeared from time to time (39, 70, 153, 42, 46).

\* \* \* \* \*

19. Of the eleven Companies whose plants and properties were acquired by the International Harvester Company, persons holding stock in only four of the Companies whose properties were bought became stockholders of the new company. Two of them—the "Minnie" and the Aultman-Miller Buckeye Company,—were substantially out of the harvester trade, and had been for several years (94, 41, 110). Two—the Kemp and Weber,—were not manufacturing harvesting machinery but only spreaders and wagons respectively. The other two,—the Osborne and Keystone,—while engaged in the harvester business, had important other lines; namely, tillage implements and hay tools, for the manufacture of which the new Company equipped itself by such purchases (42, 70).

20. Between the organization of the new company, in August, 1902, and the filing of the information in this case, on November 12, 1907, the prices of harvesting machinery of the kinds sold by the respondent have not been increased in Missouri, while, at the same time, the prices of other agricultural implements, tools and



machinery in Missouri have increased, on the average, from ten to fifteen per cent. (See Appendix to Respondent's Brief.)

21. The prices of binders and mowers to the farmers in Missouri are relatively less than the prices paid for other articles of similar character or like materials (260, 261, 250, 251, and Appendix to Respondent's Brief).

22. Respondent has paid no dividends, and the International Harvester Company has paid, in dividends, from its creation in 1902 to January 1, 1908, less than four per cent. per annum, and its entire earnings during that period, including dividends and surplus, have amounted to less than six per cent. per annum (69).

23. No plant purchased by the International Harvester Company has been dismantled or closed, nor has the supply of machines manufactured been reduced or limited. On the contrary such plants have been enlarged and improved, and the output of machines formerly manufactured has been increased, and that Company has taken up the manufacture of new lines which had not theretofore been made by any of the Companies whose properties were purchased (45, 46). The re-arrangement of manufacturing has increased the efficiency of the plants and made room for the manufacture of the new lines, and all this has been done to secure greater economy in the production of agricultural implements, tools and machinery (46).

24. During the six years following 1902, the business of competitors in binders and mowers in Missouri has increased (90, 114, 124, 143, 144). The Osborne and Keystone were the only harvester companies that were going concerns whose properties were bought, and a very substantial portion of their businesses was in other lines, and they were bought for valid business reasons, and paid for in cash. The Aultman-Miller, and "Minnie" Companies were already out of the trade in 1902, and thereafter their plants were bought because they were useful for other and more profitable manufacture, such as auto-buggies, tractors and twine (41, 45, 46, 94, 110, 153).

25. All of the transactions above referred to connected with the organization of International Harvester Company and with the purchases of manufacturing plants, occurred outside the State of Missouri, and mainly in the State of New York, and the transfers of such properties to International Harvester Company were actual transfers and conveyances of the physical properties. None of the vendor Companies, nor the new company, has ever manufactured any agricultural implements, tools or machinery in Missouri.

26. Respondent buys the agricultural implements, tools and machinery which it sell, mainly, but not exclusively, from the International Harvester Company, which manufactures them. But the contract between the two Companies leaves each free to buy and sell, respectively, agricultural implements, tools and machinery from and to whomsoever it chooses (62, 65, 48, 130, 125, 294).

27. Respondent complied with the laws of Missouri, and obtained a license authorizing it to conduct business in the state and paid the charter fees therefor on April 5, 1892, which license is still in

full force and effect, and all the business which the respondent has been carrying on in Missouri since that time is of the kinds in said license authorized (257).

28. The International Harvester Company, of New Jersey, has not engaged in business in Missouri. The respondent is engaged in the general business of selling, through local agents and dealers, agricultural implements, tools and machinery, and the business relation between the two Companies was originally established under an agreement of September 2, 1902, which provided for the sale by the New Jersey Company and the purchase by respondent of certain specified lines of agricultural implements, tools and machinery which the New Jersey Company was engaged in manufacturing. The respondent purchases and sells, in Missouri, agricultural implements, tools and machinery beside those which it purchases from the New Jersey Company (62, 65, 48, 130, 125, 294).

It sells to the farmers of Missouri 21 main lines of agricultural implements, tools and machinery including binders, mowers, rakes, harrows, manure spreaders, threshers, cream separators, gasoline engines, tedders, knife grinders, pumps, belting, hay presses, wagons, auto-buggies and cultivators (130). Its method of selling is by appointing local agents throughout the state, to whom harvesting machines are consigned on commission, the agent's commission being the difference between the retail price to the farmer and the net prices at which the articles are consigned to the agent. The agent pays for these machines only after he has sold them, they remaining, in the meantime, the property of respondent (157-160).

\* \* \* \* \*

30. From the time that respondent began to sell the articles manufactured by the New Jersey Company until November 12, 1907, when the information in this case was filed, there was no increase in the prices at which harvesting machines were consigned to respondent's agents in Missouri, and the prices of all its goods to agents and dealers have been uniform throughout the state. There is no evidence of any depressing of prices in certain localities or at certain times, to injure competitors.

\* \* \* \* \*

32. Between 1902 and 1907 the cost of the various materials and the labor employed in the manufacture of agricultural implements, tools and machinery has increased at various rates from seventeen to sixty-six per cent (75).

33. One of the principal competitors of respondent, in the sale of binders and mowers, in Missouri, increased the prices of its harvesters for the season of 1908 on account of such increase in the prices of raw materials (145).

34. In the sale, on commission, of respondent's binders and mowers, the local agents fix the prices to the farmer, and compete, among themselves, for the trade, without control or restraint on the part of respondent, and without any restraint as to prices or the territory in which they sell. The price of the 6-ft. binder to the farmer, from 1903 to 1907, has varied in different localities

in Missouri from \$110 to \$135. (See Appendix to Respondent's Brief.)

\* \* \* \* \*

36. The evidence shows no unfair or oppressive conduct by the respondent toward its customers, dealers or competitors, and the business of its competitors in Missouri has increased between 1902 and 1907 and amounts to from twenty-five to thirty-five per cent. of the binder and mower trade; and that, both in the amount of business and in commercial standing every competitor in harvesting machinery is stronger today than in 1902 (45, 82, 90, 110, 114, 124, 143).

37. The facilities for the distribution of the lines of farm machinery sold by respondent have been largely increased for the convenience and benefit of the trade in this state since 1902, and the quality, durability and efficiency of the machines have been improved, and the prices of the repairs most needed by the farmer have been reduced. (See Appendix to Respondent's Brief.)

38. Respondent does only from fifteen per cent. to twenty per cent. of the total business in agricultural implements, tools and machinery in Missouri; in binders it does from sixty-five per cent. to ninety per cent. of the business, and in mowers from sixty per cent. to seventy-five per cent., but these two lines do not constitute more than from thirty per cent. to forty per cent. of respondent's total business in agricultural implements, tools and machinery in the state, and its total business is only from fifteen per cent. to twenty per cent. of the entire business in those lines in this state. (Appendix to Respondent's Brief.)

### *Exceptions to Conclusions of Law.*

And respondent excepts to the conclusions of law of said Commissioner, and for grounds of its exceptions, assigns the following.

First. Because the Commissioner improperly concluded, as a matter of law, that the Missouri statutes forbid every agreement or combination "made with a view to lessen, or which tends to lessen, full and free competition," and that every such combination "restrains trade and tends to create a monopoly."

Second. Because the Commissioner improperly concluded as a matter of law that it is the purpose of any such agreement or combination to lessen competition which "vitiates it in the eye of our statute," and renders it unlawful.

Third. Because the Commissioner improperly concluded, as a matter of law, that the anti-trust statutes protect, and were intended to protect, all the methods of competition, whether harmful, wasteful, destructive and injurious, or otherwise.

Fourth. Because the Commissioner improperly concluded, as a matter of law, that the anti-trust statutes of Missouri forbid every combination or consolidation of properties or facilities which is made with the purpose or effect of lessening competition.

Fifth. Because the Commissioner improperly concluded, as a

matter of law, that the statutes of Missouri authorizing the consolidation of business and other corporations have no application to the interpretation of the anti-trust statutes of Missouri.

Sixth. Because the Commissioner improperly concluded, as a matter of law, that an agreement or arrangement entered into by which there is obtained the power to affect or control competition is against the anti-trust statutes, and that such power is the gist of the offense; and that, therefore, respondent is guilty of a violation of such statutes, and its license can be forfeited, even though such power has not been exercised, or attempted to be exercised, or threatened to be exercised, in Missouri, at any time during the seven years of its alleged possession.

Seventh. Because the anti-trust statutes of Missouri, as construed by the Commissioner, wrongfully interfere with the right to contract, which is guaranteed and protected by the Fourteenth Amendment to the Federal Constitution, and said statutes, so construed, are in conflict with, and violative of, the Fourteenth Amendment to the Constitution of the United States.

Eighth. Because the Commissioner improperly concluded, as a matter of law, that the International Harvester Company, of New Jersey, was a combination in restraint of trade and violative of the Missouri anti-trust laws.

Ninth. Because the Commissioner improperly concluded, as a matter of law, that the respondent is maintained as a mere selling agent of said corporation, and subject to the penalties of the Missouri statute, on account of the character of said New Jersey Company and of the acts of the organizers thereof.

Tenth. Because the Commissioner bases his conclusions of law upon Secs. 8965, 8966, 8967, 8971 and 8978 of the Revised Statutes of Missouri of 1899, which sections, all and each, are unconstitutional and void, because they violate the Fourteenth Amendment to the Constitution of the United States, forbidding a state to deny to any person within its jurisdiction the equal protection of the laws, in that they, all and each, arbitrarily discriminate between different classes of persons, between capital and labor, between persons selling products and merchandise and persons selling labor and transportation and service of all kinds, and because each of said sections applies only to articles of merchandise, and not to labor, services and other matters, the price of which is equally and similarly determined by competition and may be equally and similarly the subject of combination; and, in that, said sections severally and arbitrarily discriminate between the vendors and the purchasers of commodities, in that they prohibit vendors from agreeing to establish reasonable prices for the commodities they sell, but do not prohibit purchasers from agreeing to fix or establish prices at which they will purchase said articles.

SELDEN P. SPENCER,  
W. M. WILLIAMS,  
*Attorneys for Respondent.*

EDGAR A. BANCROFT,  
*Of Counsel.*

And thereafter, to-wit, on the 25th day of October, 1910, the Court made and entered of record the following:

14546.

STATE ex Inf. Att'y Gen'l, Inf.,

vs.

INTERNATIONAL HARVESTER COMPANY, Resp.

Come now the said parties by attorney, and upon their stipulation it is ordered by the Court that this cause be and it is hereby continued to the January Call.

And thereafter, to-wit, on the 17th day of January, 1911, the Court made and entered of record the following:

14546.

STATE ex Inf. Att'y Gen'l, Inf.,

vs.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, Resp.

Come now the said parties, by attorney, and upon their stipulations, it is ordered by the Court that this cause be continued to the April Term, 1911.

And thereafter, to-wit, on the 25th day of April, 1911, the Court made and entered of record the following:

14546.

STATE ex Inf. Att'y Gen'l, Inf.,

vs.

INTERNATIONAL HARVESTER COMPANY, Resp.

Come now the said parties, by attorney, and after arguments herein, submit this cause to the Court.

And thereafter, to-wit, on the 14th day of November, 1911, the Court made and entered of record the following:

In the Supreme Court of Missouri, Court in Banc, October Term,  
1911.

No. 14546.

STATE ex Informatione Attorney General, E. W. MAJOR, Relator,  
vs.

THE INTERNATIONAL HARVESTER COMPANY OF AMERICA,  
Respondent.

*Judgment and Decree.*

And now on this day, this court having fully considered the evidence in this cause and announced and filed its opinion that the said respondent is guilty as charged in the information of the Attorney General of a violation of section 10,301, of Chapter 98, of the Revised Statutes of Missouri for the year 1909, the same being the laws of Missouri for the year 1907, which said statutes relate to and are entitled, "Pools, Trusts, Conspiracies and Discriminations," and is and was likewise guilty of a violation of a previous statute of this State, section 8,966 of Article 1, of Chapter 143, of the Revised Statutes of Missouri for the year 1899, the same being the laws of Missouri for the year 1897, which statutes relate to and are entitled "Pools, Trusts and Conspiracies"; come now the State of Missouri, by Elliott W. Major, the Attorney General of this State, and the said Respondent by its counsel, and it is now here considered, ordered and adjudged by the Court that the said Respondent is guilty of violating the said laws of this State, in that at the dates and times set forth in the information of the Attorney General, it maintained and had entered into an arrangement, contract, agreement or understanding with other manufacturers of reapers, binders, mowers and other farm implements, with a view to lessen competition in the sale of such products and commodities in this State, and at all the dates and times was a member of and participating in such an arrangement, contract, agreement, combination or understanding in the sale of such products and commodities in this State, and by which said arrangement, contract, agreement, combination or understanding competition in the sale of such products and commodities in this State at all the dates and times aforesaid was in fact lessened, decreased and in certain instances and places practically destroyed.

It is now considered, ordered and adjudged by the Court that by reason of the violation of the statutes of this State aforesaid, in entering into and maintaining said unlawful arrangement, contract, agreement, combination or understanding, the said International Harvester Company of America, organized under the laws of Wisconsin, and heretofore licensed to do business in this State has forfeited its license heretofore granted it by the Secretary of State of the State of Missouri, and it is therefore considered, ordered and adjudged by the Court that the license of the said Interna-

tional Harvester Company of America be and the same is hereby forfeited, annulled and cancelled, and the said Respondent is hereby ousted of any and all rights and franchises granted it under the laws of this State, to further do business in this State, and it is further considered, ordered and adjudged that the said International Harvester Company, of America, organized under the laws of Wisconsin, as aforesaid, for the violation of the laws of this State as aforesaid be fined Fifty Thousand Dollars and that it pay said sum of Fifty Thousand Dollars to the Clerk of this Court on or before the 1st day of January, 1912, to be by said Clerk paid into the Treasury of this State, and upon default and failure so to do, that the State of Missouri have execution therefor, to be levied by the Marshal of this Court and enforced according to the laws of this State in such cases made and provided. But it is further considered, ordered and adjudged by this Court, that if the said International Harvester Company of America shall pay said fine to the Clerk of this Court on or before the 1st day of January 1912, and shall immediately cease all connection with the International Harvester Company of the State of New Jersey, and the other corporations and co-partnership mentioned in the opinion filed in this cause, in continuing and maintaining such unlawful arrangement, contract, agreement, combination or understanding to lessen and destroy competition in the sale of binders, reapers, mowers and other farm implements, and shall furnish the Court with satisfactory evidence of its full compliance with this judgment and of its intention in good faith to cease all connection with the said International Harvester Company, organized under the laws of New Jersey, as well as the other corporations and copartnership, mentioned in the opinion of this Court, and in the future maintain and carry on its business as an independent corporation in obedience to the laws of this State and the license heretofore granted to it, then the judgment of ouster herein shall be and is suspended, and the writ of ouster herein will not issue until expressly directed by order of this Court, and the said International Harvester Company of America is hereby given until the 1st day of March 1912, to file the proofs of its willingness to comply with the judgment of this Court, and until that date, in no event, will the writ of ouster be awarded. And it is further considered, ordered and adjudged by the Court that if it shall be shown to the satisfaction of this Court hereafter, that notwithstanding the promises and assurances of the International Harvester Company of America to abide by this judgment, it has violated the conditions of this judgment, and has violated the statutes of this State aforesaid, the suspension of the writ of ouster shall be removed by this Court, and absolute ouster be enforced as directed and adjudged herein, and to that end the Court hereby retains its full and complete jurisdiction over this cause. It is further ordered and adjudged that the State of Missouri, at the relation of the Attorney General, have and recover all its costs herein laid out, paid and expended, including the allowance which may be made to the Special Commissioner and the stenographer in taking and certifying the testimony herein



and the fees of all witnesses and officers executing process of any and all kinds, as well as all other costs and expenses incurred in the prosecution of this action, and have execution therefor against the said Respondent, the International Harvester Company of America.

In the Supreme Court of Missouri, Court in Banc, October Term, 1911.

14546.

STATE ex Informatione Attorney General, E. W. MAJOR, Relator,  
vs.  
THE INTERNATIONAL HARVESTER COMPANY OF AMERICA,  
Respondent.

This is an original proceeding in this court on the information of the Attorney General, charging the Respondent with violating the anti trust laws of this State. There is not much dispute about the essential facts in the case; the difference between the parties consisting mainly in the contention on the part of the state that the acts that were done by the respondent and its associates were done for the purpose of suppressing competition and regulating prices, and the contention on the other hand that the acts were done for the purpose of bringing about a more rational and conservative method of conducting the business of manufacturing and selling agricultural implements within the legitimate bounds of the law and with no purpose of creating a monopoly or suppressing competition, or regulating prices, in the sense that those terms are used in the statutes.

The Respondent is a Wisconsin corporation chartered in 1881, under the name Parker-Dennet Harvesting Machine Company, to engage in the business of manufacturing and selling harvesting machines that is, binders mowers &c., and other agricultural implements. It was located at Milwaukee Wisconsin and conducted its manufacturing business there. Its name was afterwards changed to Milwaukee Harvesting Company and under that name was licensed to do business in this state in 1892. It established itself here and conducted its business of selling its own manufactured articles until the occurrence of the events herein complained of by the State, since which time it has conducted a business of selling only the products of the International Harvester Company, a New Jersey corporation which corporation will be hereinafter more particularly referred to and discussed. After the organization of the last named corporation it acquired all the stock of Respondent and Respondent's name was again changed, the last name being the International Harvester Company of America; the words "of America" alone distinguishing its name from that of the New Jersey corporation. Respondent is frequently referred to in the evidence as the "Milwaukee" and for convenience and ready distinction we will sometimes refer to it by that name.

Besides the Milwaukee Company there were other foreign corporations, manufacturers and sellers of farm implements the same or

similar character, licensed to do business in this state, among them, the McCormick Harvester Company an Illinois corporation, The Plano-Manufacturing Company, also an Illinois corporation, the Warder-Bushnell and Glessner Company, an Ohio corporation, and the D. M. Osborne and Company, a New York corporation. In addition to the above corporations the Deering Company which was an Illinois copartnership was also a manufacturer and seller of harvesting machines and doing business in this state. The manufacturing plants of all these concerns were located in their respective state domicils, the business they conducted here was that of selling their manufactured products. There were other concerns engaged in like business, but the six companies above named including Respondent were the chief concerns, and in 1902 (which was the date of the alleged unlawful combination) and for several years prior thereto, they did from 80 to 90 per cent of all harvesting machine business in the United States and in the State of Missouri. The commissioner has listed these companies in the rank of the relative volume of business done by each as follows: (1) the McCormick (2) The Deering, (3) The Warder-Bushnell & Glessner, (4) The Plano, (5) The Osborne (6) The Milwaukee. The machines of each company bore the company's trade mark for a name: "McCormick", "Deering", "Champion" (the Warder-Bushnell & Glessner), "Plano", "Osborne" and "Milwaukee", and well known to the trade by their respective trade marks.

In 1902 and for several years prior thereto a very active, an unusually active, competition was practiced by these companies between themselves and others engaged in like business. The commissioner describes the competition as "active, persistent, strenuous and fierce." Respondent describes it as "a bitter wasteful warfare, of a sort never known in any other business in the world." It also says: "Competition was not fair and business like, such as the law encourages, but a fierce conflict, causing the ruthless ruin of competitors," and no fair advantage to the farmer. To avoid the disasters with which that condition of the market seemed to threaten the companies engaged in the harvester machine business, the International Harvester Company, the New Jersey corporation, was on August 12, 1902, created and into it was merged all the properties and business of five of the companies above named, to-wit, The McCormick, the Deering, the Warder-Bushnell & Glessner, the Plano, and the Milwaukee, and in January 1903 the New Jersey corporation purchased all the stock of the Osborne company and thereupon all the property of that company was transferred to the New Jersey company. Thus in January 1903, the New Jersey Company had acquired the plants and properties of the companies that theretofore had manufactured and sold eighty or ninety per cent of all the harvesting machines in the United States and to that extent it thereafter dominated the market. During 1903 it acquired control of the Altman-Miller Company an Ohio corporation that manufactured and sold a harvesting machine called the "Buck-Eye", and it has since acquired the properties of other concerns engaged in manufacturing harvesting machines and other farm implements in the United States and properties outside

the United States. The commissioner finds the value of all its assets to be, on January 31, 1907, \$156,282,454.16.

The New Jersey corporation is engaged in manufacturing all of the harvester machines above named and putting them on the market under their respective names, the McCormick, the Deering, the Champion &c., and the Respondent is its sole agent for putting its products on the market. The negotiations which ended in the organization of the New Jersey Company were conducted by Mr. Perkins of the banking house of J. P. Morgan & Company and they were the result of his reflections on the situation of the harvester machine business prompted by a visit of Mr. McCormick to him in 1902. The object of Mr. McCormick's visit was to obtain money to extend the business of his company. He was fully conscious of the danger to his business threatened by the fierce competition of the other concerns who were his rivals; his was the strongest one of them all but he wanted to gain more strength to enable him to compete with his rivals successfully. He did not at that time have any idea of forming a combination with his rivals to allay competition and control the market. His talk with Mr. Perkins was in furtherance of his purpose to obtain more money to extend his business, and there was nothing said between them at that time indicative of a purpose to form a combination. Having fully laid his purpose before Mr. Perkins, the latter took time to consider it, and they parted with the understanding that they would meet again. Mr. Perkins's reflection led him to the conclusion that the conditions were favorable for the introduction into the field of a great corporation to engage in manufacturing harvester machines and other agricultural implements. With this idea in his mind when they met again Mr. Perkins proposed to Mr. McCormick to purchase his plant. The matter was fully discussed and the proposition was agreeable. Mr. McCormick was willing to sell and Mr. Perkins to buy at a price to be agreed on based on a fair valuation of the property and business. Mr. Perkins had in mind then the purchase of other concerns and was negotiating with them, and Mr. McCormick knew that fact. During these negotiations Mr. Perkins bought for J. P. Morgan & Company all the assets of the Milwaukee Company and paid for them in cash. That seem- to have been an outright purchase, not dependent in any degree on the consummation of the negotiations looking to the purchase of the assets of the other companies. Mr. Perkins testified that he would have bought the McCormick Company even if he could not have obtained the others. He testified that after talking with McCormick he negotiated with the managers of the other companies, trading with each separately. "After finding out what I could buy the companies for, I tried to pay them in the best coin I had to deliver and they agreed to take stock in the new company in payment." Except with the Milwaukee company there was no concluded contract of purchase, but only an agreeable understanding, until July 28th, 1902, when the respective representatives of all these companies met around a table in New York and each one then and there signed the contract for the sale of the assets of the company he represented. Up to that time there was never a meeting of the representatives of

those companies to discuss and agree upon the plan of organization. The negotiations were conducted by Mr. Perkins, or under his direction, with each company separately. He testified that he bought the property of each company, just as he would buy a horse in the market. The evidence shows however that each company knew that like negotiations were going on with the other companies and each agreed to take pay in stock in a company to be formed. At the date of the signing of the contracts the respective representatives of the companies had come to New York in relation to this business but they had held no communication with each other, they came together for the first time when they signed the contracts; these contracts were all alike and were prepared and ready for signature when the parties met around the table.

It was not a joint contract, but each executed a separate one transferring to the trustee named all the property and rights of every description including accounts and bills receivable, trade marks, trade names and good will of his company. And it was provided: "The purchase price to be paid by the purchaser to the vender for all and singular said property shall be the aggregate of the several appraisals and valuations hereinafter provided for and of said accounts and bills receivable and cash, if any, and shall be payable in full paid non assessable shares of the capital stock of said purchasing company taken at par." The purchasing company referred to was the New Jersey corporation to be thereafter organized, the immediate transfers being to a trustee to hold until that organization. The acts of the representatives of the several corporations were duly sanctioned and approved by the stockholders of the respective companies, and by the partners in the Deering Company. The agreement to take pay in stock of the company to be formed applied to all the companies except the Warder-Bushnell & Glessner Company, the exception as to that company was made because it was discovered that part of its capital stock was owned by two estates, therefore the proportion belonging to those estates was to be paid in cash, the rest in stock.

All of the contracting companies parted with all their assets of every description and good will, leaving them only the shares of stock which were of no use or value. The next step was the organization of the International Harvester Company under the laws of New Jersey with a capital stock of \$120,000,000.00, which was distributed as follows: J. P. Morgan & Company having paid for the property and stock of the Milwaukee Company \$3,148,196.66, and their services and expenses in the organization being estimated at \$3,451,803.34, they were awarded stock to the amount of \$6,600,000.00; the tangible property of the McCormick, the Deering, the Warder-Bushnell & Glessner, and the Plano having been appraised at \$53,400,000.00, and their guaranteed bills receivable and accounts at \$40,000,000.00, stock to the amount of \$93,400,000.00 was distributed to them, and the remaining stock to the amount of \$20,000,000.00, was issued to individuals who subscribed for it.

After the organization of the New Jersey corporation all the other companies that had been absorbed by it ceased to do business and

thereafter the business of manufacturing and selling harvester machines and other farm implements was conducted by the New Jersey corporation. But because some states would not admit into its borders a corporation of such large capital stock, and others imposed a license tax that the managers thought was unreasonable, it was decided that the corporation would limit its operations to manufacturing the machines and implements and would employ another concern which would not be objectionable to the laws of those states, to sell its products. For this purpose the managers of the New Jersey corporation turned their attention to the Respondent in this case, then called the Milwaukee Harvester Company, the property of which the New Jersey corporation had already acquired, and the stock of which it also owned. The advantage of using this Respondent also appeared by the fact that it was already licensed in the states where it was desired to go, and it could operate in those states as the selling agent of the New Jersey corporation under the licenses that it already had. The International Harvester Company (the New Jersey Corporation) being then the owners of the stock of the Respondent, the Milwaukee Company, caused the Respondent's name to be changed to the International Harvester Company of America and chose its board of directors, and since then the respondent has been engaged exclusively in the business of selling the machines and implements manufactured by the New Jersey corporation.

Its mode of doing business was to appoint at different places in the state what it called a "sales agent" who was to conduct the business of selling the machines under certain specifications and limitations set out in an elaborate contract on a printed form. This contract for the first three years contained a clause requiring the agent to sell all the machines or property received by him under the contract at such prices and on such terms as might be fixed by Respondent or its General Agent, and also an agreement on the agent's part not to accept the agency of any other concern in like business, but those restrictions were eliminated from the contract used in 1906 and thereafter. Under the contract after those clauses were eliminated, the agent was required to pay the company a certain price for each machine sold, and whatever he might get in excess of that price was his commissions. The sliding of the price at which the agent might sell was within the margin of his own commissions, the price he was to pay the company was fixed. The evidence showed that there was a considerable competition in the trade after the absorption of the competing companies; some of the witnesses, who were agents, testified that there was as much competition after 1902 as there had been before that date. But the competition there spoken of was chiefly between the agents selling the different machines made by the New Jersey corporation, that is, an agent who had the selling of a "McCormick" would compete with one selling the "Deering", or the "Champion" or the "Buck-Eye" &c. and it was within the margin of the agents' commissions. And the evidence showed that there were three independent companies in the market competing with the agents of the Respondent, and they did a good business.

But as compared with the volume of business done by the Respondent that done by the independent companies was small. In entering into the contract the agent was permitted to select either the "McCormick," the "Deering," the "Champion," the "Plano," the "Osborne" or the "Milwaukee" but was generally confined to one line.

The evidence also shows that the price of Harvester Machines was not materially higher after the New Jersey corporation entered the field than it was before, until 1908, when it was increased eight or ten per cent whilst in the meantime there had been a greater increase in the price of the material and labor used in their construction. The evidence also shows that whilst harvesting machines were the chief products of the companies absorbed by the International Harvester Company, that company has greatly enlarged its business and extended it to many other farm implements and has thus put itself in competition with the many concerns that theretofore were and still are engaged in manufacturing such other farm implements and the farmers generally have profited thereby. The evidence also shows that the machines manufactured by the International company have been greatly improved in quality and the item of repair material has been reduced in price and placed within closer reach of the farmer. On the whole the evidence shows that the International Harvester Company has not used its power to oppress or injure the farmers who are its customers.

# I.

In 1902, when the negotiations which led up to the organization of the International Harvester Company were begun, competition between the large harvester machine companies in the United States was such as to reduce the market to a condition that was deplorable from the standpoint of the competing companies and it is not certain that its tendency was towards the ultimate advantage of the consumer of those machines. Whilst the tendency of fair competition is to produce a wholesome condition of the market, yet competition may be of such a character and so designed as to destroy the weaker competitors leaving only the giant in the field who then would have a monopoly of the market. The law is not interested alone in the consumer, but it has regard also for the producer and would if it could protect a small manufacturer or dealer from the destruction that the avarice of a powerful rival might design. Therefore the argument of the learned counsel for the Respondent is not without force, that the competition that existed in 1902 in the harvester machine market was not the kind of competition that the law makers had in mind when they enacted the anti trust statutes. But unfortunately for that argument it is impossible for the Legislature to prescribe a general rule by which competition conducive to a wholesome condition of the market can be distinguished from a competition that is demoralizing and disorganizing. In a later case (*Standard Oil Co. v. U. S.*, 31 Sup. Ct. Reporter 502) the Supreme Court of the United States held that the act of congress which prohibits contract that had for its purpose a restraint of trade, but only such

reason, and when so construed it did not forbid the making of every contract that had for its purpose a restraint of trade, but only such as had for its purpose an unreasonable restraint of trade; and, for an example, the court referred to contracts whereby a voluntary restraint would be put by an individual on his own right to carry on his trade or calling; contracts of which character were by the common law of England at one time held to be void, but the doctrine was afterwards modified so that it was only when a restraint by contract was so general as to be coterminous with the Kingdom that it was treated as void. Reading the whole opinion in that case we infer that when the court says a reasonable restraint of trade is not forbidden by the statute, it refers to the restraint which is placed on the trade by the terms of the contract or by the act in question. Under that decision as we understand it if a contract provides for a reasonable and lawful restraint of trade it is not forbidden by the statute or if the act done is potential only of such a reasonable restraint it is not condemned. Under the rule there laid down if a contract in question or an act of combination is significant or potential only of a reasonable restraint of competition it is not within the condemnation of the statute. But when a contract or act of combination is to be upheld on the theory that it is only a reasonable restriction on trade, it must appear on the face of the contract or act that the restriction which it creates is limited within reasonable bounds. It will not avail one who attempts to defend a contract unlimited in its terms or act that is unlimited in the apparent scope of its power, to say that it will be used only in a moderate degree. The law is jealous of an unlimited power in such case in whosoever hands it may be placed. After laying down the rule of reasonable construction the court turned to the facts of that case and held that the acquisition of power by the Standard Oil Company betokened its unlawful purpose. The court said: "Because the unification of power and control over petroleum and its products which was the inevitable result of the combining in the New Jersey corporation by the increase of its stock and the transfer to it of the stocks of so many other corporations, aggregating so vast a capital, gives rise, in and of itself in the absence of countervailing circumstances, to say the least, to the *prima facie* presumption of intent and purpose to maintain the dominancy over the oil industry, not as a result of normal methods of industrial development, but by new means of combination which were resorted to in order that greater power might be added than would otherwise have arisen had normal methods been followed, the whole with the purpose of excluding others from the trade and thus centralizing in the combination a perpetual control of the movements of petroleum and its products in the channels of interstate commerce."

And again the court said: "So far as the decree held that the ownership of the stock of the New Jersey corporation constituted a combination in violation of the first section and an attempt to create a monopoly or to monopolize under the second section and commanded the dissolution of the combination, the decree was clearly appropriate."



In the case at bar we are to take the acts of the parties and judge their purpose by the consequence that would naturally result. When men deliberately and intelligently go to work and acquire power that will enable them to control the market, if they choose to exercise it, there is no use for them to say that they did not intend to control the trade or limit competition, nor when the legality of their act of acquisition is in question is it any use for them to say we have not used the power to oppress any one. Counsel for respondent argue that the mere possession of power incident to the possession of wealth is not unlawful if it is not, unlawfully exercised, and that is so. Wealth is power and it may, without violation of law, be exercised to influence the market. The statute we are now considering is not designed to limit the amount of wealth one may lawfully acquire, therefore not designed to limit the influence that wealth may exert, but it is designed to forbid the acquisition of power for the purpose of influencing the market by combinations of interests that otherwise would compete in the market. The law regards such a power acquired by such a combination as dangerous to the rights of the people and forbids its acquisition. If immediately on the organization of the International Harvester Company and its appointing the Respondent to act as its agent and before any of its products were put on the market an information in quo warranto had been pre-ented in court against it, it would have been no answer to the complaint for the Respondent to say, true it is we have this power but we are not going to use it to the injury of the farmers or of other dealers in the same kind of implements. Neither is it any defense, after operating under the power for a time, to say we have not up to this date used the power to injure anyone.

Doubtless it could have been well said in behalf of the Standard Oil Company in the case above cited, that under its operation the price of coal oil had not been increased and that many products of petroleum other than illuminating oil, not before known or used had been developed, and on the whole the public had been benefited, although in the acquirement of the power small producers and dealers may have been driven out of business and ceased to compete in the market.

So in the case at bar, the price of harvesting machines has not increased in proportion to the increased cost of construction, or the increased merit of the machines, and respondent has brought other farm implements into trade, and it is also true that not all, though some of the smaller concerns that were competitors in the market, have ceased their struggle for existence and retired from the field.

There can be no doubt but that the competition that existed between the concerns that were engaged in manufacturing and selling harvester machines in 1902, was the moving cause of the organization of the International Harvester Company and there can be no doubt but that that competition ceased when that corporation took charge of the business. The suppressing of that competition may not have been Mr. Perkin's purpose, he may have thought that he could organize a great corporation that could live and prosper in

spite of competition. He bought the Milwaukee Company without waiting to see what he could do with others and he said that he would have bought the McCormick even if he could not have bought the others. But we are not concerned with what he would have done, our attention is directed to what he did, and that was the buying of all these concerns and combining them in one corporation, with the result that the fierce competition that had existed ceased. He said that he bought the property of each of these companies just as he would buy a horse in the market. He was probably mistaken in that figure of speech. This transaction was conducted with great skill and ability and evidently with an eye on the anti-trust statutes of this and other states, with the purpose of either avoiding or evading those statutes. Whilst the negotiations with each company were conducted separately yet they were conducted with reference to the result of like negotiations with the other companies. No definite contract of purchase was concluded with either company, except the Milwaukee, until like contracts were made with the others and the agreement to take pay in stock of the corporation to be formed showed that the managers of each company knew of what the corporation was to consist. The managers of these several corporations were men of conspicuous business intelligence, they would never have agreed to sell the property of their companies and take pay in stock of a corporation to be formed unless they knew of what that corporation was to consist. The fact that they did not all get together and agree to merge their companies in one, but on the contrary each conducted its part of the scheme in form as if it were simply making a sale of its property, shows that they were acting in fear of the anti-trust statutes. And the fact that they did not all sign one contract, but each a separate one, shows caution to avoid the appearance of combination, yet when all the several contracts were signed the effect was the same as if they had all signed one contract. And the fact that the representatives of the five companies were all in New York on that business at the same time but stopping at different hotels and holding no communication with each other again shows caution. If there had been no anti-trust laws in the land and these gentlemen had all concluded, in order to suppress what they call this unbusinesslike and ruinous competition, to unite their interests in one great company (as in fact they did) the most natural thing for them to have done would have been to meet together and talk it over and agree on the details. In the case above cited the Supreme Court of the United States commenting on the comprehensive terms of the anti-trust act of congress, which in that particular is like our statute, said: "That in view of the many new forms of contracts and combinations which were being evolved from existing economic conditions, it was deemed essential by an all embracing enumeration to make sure that no form of contract or combination by which an undue restraint of interstate or foreign commerce was brought about could save such restraint from condemnation." And so we say under our statute the form of contract under which this combination was brought about cannot save it from condemnation, and Respondent cannot

escape the result by saying it was not designed to suppress reasonable competition, but only the ruinous and unbusiness like methods that were then in practice, because there is no such limit in the power conferred.

We hold that the International Harvester Company, the New Jersey corporation, is an unlawful combination to suppress competition and regulate prices within the meaning of our statute, and therefore it has no right to do business in this State.

## II.

The Respondent the International Harvester Company of America, the Wisconsin corporation, is doing business in this state under a license issued to it by the Secretary of State in 1892. At that time it was an independent corporation under the name of the Milwaukee Harvester Company manufacturing and selling its own harvester machines. Of this corporation the commissioner says: "This corporation and its stockholders once had capital, now it has none; everything that it or its stockholders once had now belongs to the International Harvester Company. \* \* \* The Respondent in truth and in fact is a mere sales department of the International Harvester Company."

At the date of the organization of the International Harvester Company and at the time it began doing business in this state through the agency of the Respondent it could not have obtained a license in its own name because at that time our law did not admit into the State a foreign corporation of such large capital, but since then our statute has been amended and the amount of the capital is now no objection. But the fact is the International Harvester Company began doing business in this state through the agency of the respondent at a time when, even if it was otherwise entitled, it could not have obtained a license in its own name. And although now the amount of its capital stock would not exclude it from the state yet the fact that it is an unlawful combination in the light of our anti trust statutes would exclude it. What a principal is forbidden to do in his own name he cannot do through an agent. If a principal has no authority he cannot confer authority on an agent.

There is another aspect in which the Respondent appears. When the Respondent obtained its license to do business in this state it was an independent corporation manufacturing and selling its own machines and it was for the purpose of selling its own product that the license was granted. It now has no business of its own, no property, no independent existence, it is in fact a mere sales department of the International Harvester Company which company has never been licensed to do business in this state. We do not mean to say that the Respondent while doing the business for which it was licensed in 1892 could not also, if its charter so provided, have acted as agent for some other concern and sold its goods, provided the other concern could have lawfully sold its own goods, but whether when the Respondent committed a complete abandonment of the business for which it was licensed, had no

longer any business of its own, it could take up a mere agency is a question worthy of consideration. But perhaps there is no use deciding that question since we have already concluded that Respondent's principal has not and has never had any right to do business in this state, therefore as its principal's agent Respondent has no such right. The amount paid by Respondent for the license issued to it in 1892 was \$62.50, which was the minimum tax prescribed by the statute, and was estimated on the representation of the Respondent at that time as to the proportion of its capital stock, which was \$750,000.00, represented by its business in this state. The International Harvester Company with a capital of \$120,000,000.00, even if it was not otherwise excluded could not lawfully use the license based on an estimate of the proportion of the capital stock of another company which was less than a hundredth's part of its capital. If such were permitted corporations with enormous capital would soon learn to organize or acquire smaller ones and send them into the state to do its business with a minimum fee.

### III.

We have already said in effect that when a party is called into court to answer a charge of unlawful combination in restraint of trade, it is no defense to say that the power thus acquired has been or will be used with moderation. But after the court had adjudged the party guilty of the act charged and comes to consider the penalty to be adjudged, the past conduct of the party in the exercise of its power is a fact worthy of consideration. Our anti trust statute says that if the party found guilty of the act forbidden is a domestic corporation its charter shall be adjudged forfeited and if it is a foreign corporation its right to do business in this state shall be adjudged forfeited. Besides the statute we have the common law on the subject of combinations in restraint of trade and the penalties under that law; in this respect the State courts have a jurisdiction that the federal courts, who have no common law jurisdiction, do not have.

In determining the penalty to be adjudged in a case of this kind the court should have regard to the consequence to follow its decision. It would be an injury to the people of this state to forbid the International Harvester Company to do business here, therefore, whilst we must obey the mandate of the statute and pronounce a judgment of ouster yet we may suspend the execution of the judgment as this court in some cases has sometimes done on terms that would be fair to the corporation and conducive to the welfare of the people of the state.

One of the evils intended to be guarded against by the law is the enhancing of prices to the injury of the consumer, but that is not the only evil that may be done by a great power in the market, the driving of small competitors out of the trade is a wrong that the law would prohibit. This is not a paternal government and the state does not undertake to deprive one of the advantage his greater wealth gives him in the market over one of smaller means, but it does undertake to prevent a combination of interests to drive

others out of the market. If the International Harvester Company were disposed to exercise the power its enormous wealth gives, and if it were left unrestrained to do so it could drive every competitor it now has from the field. In considering what restraints the court in this case, in that respect, should impose, we experience difficulty. A company of so much strength has the power to temporarily reduce the price of its goods to such a degree as that all competitors would be compelled to either sell out or quit the business, and when the field by such means would be cleared the prices would be at the will of the survivor. There would be no advantage to the people in that. On the other hand it will not do to say that this company shall not, because of the superior facilities it possesses for economical manufacturing, put its products on the market at a price that other concerns possessing less facilities, cannot afford and must therefore leave the field. Nor will it do to say that this corporation shall not buy out the smaller manufacturers and dealers, for that might be unjust to the latter, depriving them of an opportunity to sell when they so desired.

If the International Harvester Company is to be permitted to continue to do business in this state either in its own name or through the agency of Respondent it must be on condition that it shall not use its power either to force a competitor to sell or drive it out of the market by unfair methods, and that it will not raise the prices of the articles it sells beyond a fair profit on their cost and the expense of marketing the same. And since the International Harvester Company has been doing business in this state, through the agency of Respondent, under license that it had no right to use, it should pay to the State a reasonable sum for the privilege enjoyed, and it should take out a license in its own name under the terms and conditions prescribed in Section 3039 Revised Statutes 1909, and pay therefor the tax in that section prescribed, estimated on the proportion of its capital stock represented by its property and business in Missouri, and subject itself to all the requirements of foreign corporations doing business in this state prescribed in Article 1 of Chapter 33 of the Revised Statutes of 1909. The license so to be taken out to stand revoked if at any time hereafter on motion of the Attorney General it be made to appear to this court that the corporation either in person or by its agent has violated any of the conditions, above specified. If the International Harvester Company sees fit to comply with the terms above specified it may carry on its business in this state either in person or through the agency of the Respondent, but not on the Respondent's present license.

The International Harvester Company not being a party to this suit, of course we can impose no fine or other penalty on it; it not being in this state it is not subject to expulsion from our borders, we can only affect it in the person of its representative the Respondent.

The judgment is that the license issued to Respondent in 1892 to do business in this state is hereby revoked, and that Respondent pay the costs of this suit. But it is further adjudged that if the International Harvester Company shall within 6 days pay the above mentioned reasonable sum to be fixed by the court on motion-to be here-

inafter made and shall take out a license to do business in Missouri on the terms and conditions above specified it may conduct its business here either in its own name or through the Respondent as its agent until the license expires by law or a breach of one or more of the conditions above mentioned.

Lamm, Ferris and Brown, JJ. concur in all except the judgment suggested in this opinion. Judge Kennish not sitting having been of counsel.

LEROY B. VALLIANT, C. J.

In the Supreme Court of Missouri, Court in Banc, October Term, 1911.

No. 14546.

STATE ex Informatione Attorney General E. W. MAJOR, Relator,  
vs.

THE INTERNATIONAL HARVESTER COMPANY OF AMERICA,  
Respondent.

*Separate Opinion.*

# I.

I do not concur in all that has been written by the learned Chief Justice in this case, nor do I concur at all in the manner in which he finally disposes of the case. I do, however, concur in much that he has said.

The opinion as presented simply ousts the International Harvester Company of America, but fixes no fine as against it. In the judgment of ouster I concur. The above company is the only one before this court, and the only one which can be reached by this Court, and if a penalty is to be fixed for the violation of our laws, such penalty must go as against the sole respondent in this case. I agree further that we may suspend the ouster upon terms, if we see fit to grant terms. I can not concur in that portion of the opinion, which reads:

"And since the International Harvester Company has been doing business in this State, through the agency of respondent, under license that it had no right to use, it should pay a fine in the sum of \$— for that unlawful act, and it should take out a license in its own name under the terms and conditions prescribed in section 3039, Revised Statutes 1909, and pay therefor the tax in that section prescribed, estimated on the proportion of its capital stock represented by its property and business in Missouri, and subject itself to all the requirements of foreign corporations doing business in this State prescribed in Article I of Chapter 33 of the Revised Statutes of 1909. The license so to be taken out to stand revoked if at any time hereafter on motion of the Attorney General it be made to appear to this court that the corporation either in person or by its agent has violated any of the conditions above specified. If the International

Harvester Company sees fit to pay the fine above specified and comply with the terms above specified it may carry on its business in this state either in person or through the agency of the respondent, but not on respondent's present license."

The International Harvester Company is not before this Court, and we have no right to place restrictions upon it by way of a judgment. If it desires to do business in this State it has the right to make application to the proper State officers for a license so to do, unhampered by a prejudgment of the matter by the opinion of this Court in a case to which it was not a party. To determine the status of the respondent, The International Harvester Company of America, we have the right to determine the character of the relations which it bore to the International Harvester Company, the big corporation, and the character of the business done by each. We also have the right to say whether by contract or otherwise the relationship and the business of the two is such as to subject the respondent in this case to the penalty prescribed by the law, but we can go no further in our judgment and say that the International Harvester Company shall take out no license to do business in this State until it pays a fine prescribed by a judgment in a case to which it is not a party. To my mind our whole judgment should be as against the International Harvester Company of America, the only company subject to the jurisdiction of this Court. That judgment in my opinion should be one of ouster, and in addition thereto a fine of not less than \$50,000. Whether the ouster may be stayed upon terms may be a matter for further consideration. My reasons for these conclusions I prefer, as indicated above, to express in my own way.

## II.

We have now in this State, and so had at the time of the institution of this suit, a statute (Section 10301, Rev. Stats. 1909) which reads:

"All arrangements, contracts, agreements, combinations or understandings made, or entered into between any two or more persons, designed or made with a view to lessen, or which tend to lessen, lawful trade, or full and free competition in the importation, transportation, manufacture or sale in this State of any product, commodity or article, or thing bought and sold, of any class or kind whatsoever, including the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, and all arrangements, contracts, agreements, combinations or understandings made or entered into between any two or more persons which are designed or made with a view to increase, or which tend to increase the market price of any product, commodity or article or thing, of any class or kind whatsoever bought and sold, including the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, or hereby declared to be against public policy, unlawful and void; and any person or persons creating entering into, becoming a member or participating in such arrangements, contracts, agreements, combinations or understandings shall be deemed



and adjudged guilty of a conspiracy in restraint of trade, and punished as provided for in this article."

The part to which I desire first to apply the facts in this case, stripped of all useless verbiage would read:

"All arrangements, contracts, agreements, combinations, or understandings made, or entered into between any two or more persons, designed or made with a view to lessen, or which tend to lessen \* \* \* full and free competition in the sale \* \* \* in this state of any product, commodity or article, or thing bought and sold \* \* \* are hereby declared to be against public policy, unlawful and void, and any person or persons creating, entering into, becoming a member of or participating in such arrangements, contracts, agreements, combinations or understandings shall be deemed and adjudged guilty of a conspiracy in restraint of trade, and punished as provided by this article."

The punishment is fixed by section 10304, which follows in the article.

It will be noticed that our statute is exceedingly broad. It includes not only contracts, agreements and understandings, but also all arrangements and combinations.

It includes not only all those things which tend to lessen full and free competition, but likewise all those things which were done with the view of lessening full and free competition. In other words, this statute punctuated and worded as it is, covers two classes of "arrangements, contracts, agreements, combinations and understandings," i. e., (1) those that were made "with the view to lessen \* \* \* full and free competition" but which may have never been so operated as to reach the result had in view or in mind, and (2) those made "which tend to lessen \* \* \* full and free competition" and which in fact did lessen competition.

I repeat that this statute when fairly analyzed *this resolves itself* so far as the question under discussion is concerned. The several clauses purposely placed therein by the law-making power do not mean one and the same thing, but were put there purposely to be far reaching in effect. It was intended to reach all conceivable methods which might be designed by shrewd "captains of finance." The purpose of the statute was to thwart action in the very incipency as well as all down the line. It was designed to reach all arrangements, &c., which were designed and made with the view of lessening competition, as well as those which in fact did that thing. Either class falls equally under the ban of the statute—none no more nor less than the other. To my mind the respondent in this case is guilty under either portion of the statute as thus analyzed. We should perhaps add that section 9896, of the Revised Statutes of 1899, condemned the same "arrangements, contracts, agreements or combinations."

In that statute we have the same two classes as in the present statute. We apply the facts to the first class only in the succeeding paragraph.

## III.

That there was an arrangement between the respondent and four other leading manufacturers of binders and reapers in 1902 is beyond question. That respondent, through J. F. Morgan & Co., entered fully into that arrangement there is no question. Now was such arrangement made with the "design and view of lessening full and free competition"? If so, then such arrangement violated our laws, and if respondent was a party thereto it was at the time and is now guilty. This arrangement must be stamped and branded as of the date of its making. The question is, what was its "design and view" at the time made? If unlawful then, it remains unlawful. Let us now revert to the facts. In 1902, and for some years prior thereto, there *was* six concerns licensed to do business in this State, i. e., (1) the respondent, then known as The Milwaukee Company, (2) The McCormick Company, (3) The Deering Company—a co-partnership—(4) The Warder-Bushnell and Glossner Company, (5) The Plano Company, and (6) The Osborne Company. These companies at that time did 80 to 90 per cent of the binder, reaper and mower business in this State. They were then in actual and unrestricted competition in the sale of binders, reapers and mowers in this State. To make sales they would cut prices. Every syllable of evidence in this record shows that there was then actual competition. The same evidence likewise shows that after 1902 there was no real competition. The International Harvester Company, acting through its agent, the respondent herein fixed the prices of each machine to the retailer and permitted no deviation therefrom. The only possible chance for competition was by the agent cutting off a part of his commission. The machines were listed to the agent at a fixed sum and that sum had to be accounted for at the settlement. That there was real competition prior to 1902 and no competition since is best shown by a few excerpts from the testimony.

Mr. McCormick, one of the leading spirits in the International Harvester Company, in part, said:

"Q. Was a part of the unstable condition incident to this unsettled condition prior to the formation of the International Harvester Company, a variation from the list price and the selling of the machines—did that constitute a part of the unbusiness-like methods that you mention?"

A. The unbusiness-like methods were a multitude of things.

Q. Was that a part of it?

A. Yes, sir.

Q. That is, the Deering people would have a machine listed at \$90.00 and let the dealer have it at \$80.00?

A. Yes, sir.

Q. Was that a common practice in giving of rebates?

A. All kinds of subterfuges for modifying prices, taking old machines in large value, throwing in other property, wasteful expenditure of money and time, and salary of men.

Q. I was not asking you of what you complained in detailed statements—I asked you if the selling below list prices was one—was that true?

A. Yes, sir.

"Q. Now, since that time you make one price on paper and get another price from the dealer?

A. We do not.

Q. You maintain the prices listed?

A. Yes, sir.

Q. And before that consolidation that was not done by any of the companies?

A. Was not done so generally.

Q. Well, the truth of the matter is that a very large proportion, if not the larger proportion, was made—the sales were made below the list price?

A. I could not say about the larger proportion.

Q. But a large proportion was?

A. Yes, sir."

Mr. Glossner, of the Warden-Bushnell and Glossner Company, said:

"Q. You were all competitors of each other?

A. Yes, sir.

Q. There was no understanding or agreement between you prior to 1902?

A. No, sir.

Q. There was actual competition between you?

A. Yes, sir.

Q. The fact is, the competition was pretty fierce?

A. Yes, sir; we tried to make it so.

Q. The competition in the harvester business had been more pronounced in their early part?

A. No, sir; it grew in bitterness and extent right along.

Q. You think it increased?

A. Yes, sir.

Q. You think there was more competition in the harvester business in 1902 than any time before?

A. It depends on what you call competition; it was a bitter fight between everybody to get business and to get the better of your competitor."

Mr. Funk, the general manager of the International Harvester Company, said:

"Q. Then you did cut prices on your machines, when<sup>4</sup> you were with the Champion people to get business?

A. Yes, sir.

Q. Was there a uniform price to the dealers at that time, before the International Harvester Company of New Jersey was organized?

A. No, sir.

Q. You sold the machines for what you could get?

A. We had a list price, but it was varied from in certain conditions."

Mr. Yancey, former general agent for the Deering Company, said:

"Q. Did you at any time prior to 1902 reduce the price to the dealer because of competition?

A. Yes, sir.

Q. To what extent would you reduce the price in instances of that character?

A. Well, my previous answer covers that case. During the war of the competition we were pretty hard run for business, and if it looked as if we were going to carry machines over, and to protect ourselves we had to cut the price.

Q. How much?

A. Ordinarily five dollars, sometimes ten, in extreme cases maybe a little bit more than that.

Q. In fact, you frequently cut the prices in any way to sell?

A. Not frequently.

Q. So that the old instructions—or was not that the rule prior to 1902?

A. It could not be said to be the rule.

Q. It was rather frequently done, was it not, Mr. Yancy?

A. It varied in different sections, sometimes the demand was greater, and the necessity did not exist in some years as in others.

Q. Did you find that the necessity came up because other companies were also doing that?

A. Yes, sir.

Q. The McCormicks were doing that?

A. Yes, sir.

Q. And the Plano?

A. Yes, sir.

Q. The Milwaukee, the Osborne and the Champion—they were all doing that?

A. Yes, sir; more or less."

We shall not go further. There was actual competition between the six leading manufacturers in 1902 prior to the organization of what in plain language should be called the harvester trust.

In 1902, as stated by Judge Valliant, Mr. McCormick went East to get money to enlarge his business. The evidence indicates that these large concerns were not losing money, but as said by one of the parties, they were not making money on the trade in the United States, but were making money on their foreign business. Judge Valliant has detailed more than I shall as to how the arrangement was made. I want to note briefly, however, this arrangement or combination to lessen competition, for in plain English it was that and nothing else.

In the first place, J. P. Morgan & Company produced an option on the present respondent, then the Milwaukee Company. This covered the whole concern, lock, stock and barrel. Then Morgan & Company, as practical owners of respondent were in a situation to arrange and combine with others in the harvesting machine business. They did so arrange, but to give evidence of individual sales, they had each party to the arrangement or combination sell by written contract to one Lane. This is step number one. Lane later conveyed to the International Harvester Company. This is step number two. The International Harvester Company then proceeded to put its stock in the hands of voting trustees under a written agreement, forming a voting trust, which was to be in force

for ten years, but which might be terminated in five years. This is step three. Then follows the sales agent contract with the respondent in this case. The stock held by these trustees was held in proportion to the amount put in by these several component corporations, save and except certain amounts fully discussed in the principal opinion. Was this an arrangement or combination with the view of lessening competition? It was not a bona fide sale, because the sellers had to create their own buyer. It was a device to combine all their property into one huge concern and for what purpose? In view of the facts and upon conscience can we say it was not done with the view to lessen free and full competition? We think not. The parties themselves say that it was done to stop the fierce competition between these large manufacturers. They further say that it did stop that competition, as is evident from the very arrangement itself. The statute does not say that the arrangement must stop competition to bring it within the ban of the law. If it was made with the view of lessening competition the arrangement and combination must be condemned. Can it be said that when you have taken 80 or 90 per cent of a given trade, formerly in the hands of six corporations in open and fierce competition, and place it in the hands of three voting trustees with practically absolute power, that you haven't by the very act itself lessened free and full competition in the general trade? We think not. The thing speaks for itself. The purpose is apparent. It would be years before the small concerns left, which did only 10 to 20 per cent of the business, could gain strength and capacity to have any real competition.

The situation of the so called competition which was left after this unlawful combination, is well described by Mr. Funk, the general manager of the International Harvester Company. He says:

Q. Would not that guerrilla warfare and competition, would it not be just as liable to occur with the Johnston, the Acme or Walter A. Wood as it did happen with the companies you spoke of a while ago (referring to the six companies just mentioned)?

A. No, sir.

Q. Why?

A. Because the companies who are active and aggressive always draw the fire of the others. The Wood and the Johnston and these other concerns were not as active, and they picked their territories, while these five companies were everywhere. It was a matter of pride and policy with us to be represented everywhere. The Johnston and the Wood and the few you spoke of, had considerable trade in the East where competition was not quite as fierce, and they could pick out localities where conditions were favorable to them. They operated more where conditions were more favorable."

This refers to the condition just before the merger of interests. From this it appears that these little fellows doing from 10 to 20 per cent of the business, were not doing business in all localities. The six companies were doing business everywhere. The little fellows picked their places. Under this testimony the merger in 1902 in many places not only lessened competition, but actually cut it

off entirely. Imagine a place where the six big corporations each had agents and therefore active competition and where the little fellows in their caution had not located an agent. They had to pick their places as stated by the witness. Look at our imaginary place a month before, and then again a month after the merger. Or if you please, a day before and a day after the merger. With this pen picture in mind can you say that the competition in the harvester trade was not in fact lessened by the arrangement and combination attacked in this suit? We think not. In the shades of a single night the six big warriors upon the field of active trade are gathered together into one fold and when morning comes competition has fled. Not only does the thing speak for itself, but the conspirators have spoken for it. They say, first, that prior to the creation of this good trust the manufacturers to meet competition often had to cut the prices from \$5.00 to \$15.00, per machine, and sometimes more.

These cuts were made by the manufacturer and not by the poor agent out of his commission. It was actual competition between the manufacturers themselves. But how the day after? A fixed price was established by the one giant owner of all. No cut is ever made. No competition between these six large manufacturers. General competition is lessened and in many places all competition destroyed.

The parties say that what they did was done for the very purpose of stopping all competition between these large concerns. That it had that effect is evident.

We can judge the meaning of a contract by the construction the parties place upon it themselves. So also we can judge an act by the construction the parties place upon it themselves. The purpose of one act can be gathered by subsequent acts immediately following, which subsequent acts show that they were done in the course of carrying out the first. With this in view, let us see what was done by the parties in 1903, 1904 and 1905. During these years their agency contracts contained this clause:

"5th. To sell all machines or property received under this contract at such prices and on such terms as may be fixed in writing by said company or its general agent in the territory herein mentioned."

The purpose there expressed is to fix the price to the consumer. It is true that this was dropped from the agency contracts of 1906, and thereafter, but it is yet potential as declaratory of the intent of the parties when they entered into this arrangement and combination. Public history discloses that about that time the State of Kansas was proceeding against the International, and this perhaps induced the change. By the same contract the agent's territory was limited so that he could not compete with other agents selling the same line, and further he was obligated not to sell the goods of any other manufacturer. Everything was done that could be done to destroy competition. Even the little competition between agents where they made cuts out of their commissions was provided against. These things from the parties themselves bespeak their construction

of the arrangement and combination made in 1902. These are things which can not be rubbed out of this record by the smooth talk of the head men or their sub-agents. They show that the whole transaction was done with the view of stifling competition. Not only so, but they show that it did in fact impede competition.

One thing more on the question as to what was the intent of these parties when they entered into this arrangement. In the voting trust agreement, the trustees were empowered to increase the capital stock to \$180,000,000, without further consulting the parties interested. The evident purpose of that was to enable them to do just what they afterward did. The D. M. Osborne Company and the Buckeye Company were not yet in the trust. The former was a strong competitor. In 1903 these two and other manufacturing companies were bought and taken in under the protecting wing of the International. At the beginning, as above indicated the way was prepared. These things point unerringly to the conclusion that the action of the respondent and the other corporations joining it in the first instance made their deal and arrangement with the view to lessen competition. Not only did they purchase the corporations above indicated, but for two years thereafter they run them in their former names, without disclosing their ownership. If this was not to deceive the officers of the law and leave some appearance

Viewing this case from any standpoint, it is clear that the merger of all these interests in one giant concern was made for the purpose and to use the language of the law, "with the view to lessen \* \* \* full and free competition," all in violation of our statutes as they exist now and as they have existed since 1897. Nor is there any doubt that the respondent is and ever has been a party to such unlawful arrangement.

#### IV.

Nor do I fully concur in the statement that there has been no violation of the other portion of the statute which denounces arrangements and combinations to increase the market price. I think this arrangement and combination under the facts of this case was made for that purpose. The principal opinion states the facts as to the amount of raise made by respondent in prices, and also states that there was a raise in the cost of material and labor. Grant the latter to be true, which we must, for the evidence so shows, yet there are other facts in the record which show that this raise was not demanded for that reason. The new scheme cut off an army of employees and great amount of expenses. Respondent's answer, among other things, alleges:

"That the real and only purpose of said purchase of the plants and properties by the International Harvester Company of New Jersey was to enable said company to avoid the large waste that had heretofore resulted from the unbusinesslike and extravagant methods which prevailed in the sale of farm implements, tools and machinery, and particularly in the harvester trade, and it required many unnecessary canvassers, experts and selling agents, and entailed other large and useless expenditures."



I have no doubt that these matters which were cut off rendered it unnecessary, even with the increase — of raw material and labor, to make this raise in price. In my view of the case, it was made because it could be made owing to the lack of real and substantial competition. And I have no doubt in my own mind that had it not been for the activity of Missouri and other State officials that there would have been other raises ere this, and all in conformity to the intent had and entertained at the very incipency of this unlawful arrangement and combination. Aggregations of large properties by bona fide purchasers in the usual business way do not fall under the ban of the statute, but when the would be sellers have to erect a straw man for the purchaser, the credulity of the Court is strained, when we are asked to brand it as a bona fide transaction.

The respondent in this case was a part and parcel of this gigantic and nefarious scheme. For some years it has been the mere sales agent of the International Harvester Company, the New Jersey Company. It was licensed in this State to sell its own goods, but it is now selling the goods of another. As such party to an unlawful arrangement or combination it should suffer the penalties prescribed by our laws. I have indicated that we can temper justice with mercy. We have the right to absolutely oust it from the State, and in addition to fine it. We can conditionally oust it from the State and fine it. I think a conditional ouster should go, and the respondent be fined in the sum of fifty thousand dollars for its long and continued infraction of our laws.

By conditional ouster I mean that absolute ouster should go, but such judgment of ouster be suspended upon the payment of the fine aforesaid within a reasonable time to be fixed by the Court. As further conditions to the suspension of judgment of ouster, I would suggest that said respondent be required to make full and true statement to the proper State officer of the amount of its capital used by it in the transaction of its business in this State, to the end that it may be rightfully and legally taxed in this State. That it sever its unlawful connection with the International Harvester Company of New Jersey, and present satisfactory evidence of that fact to this Court within such time as may be fixed by the judgment of the Court. That, hereafter, it shall do and commit no act which will lessen or tend to lessen competition in the sale of such articles of commodity as it sells in this State. That, hereafter, it shall do and commit no act which will necessarily increase or tend to increase the price of commodities of the character sold by it. That it shall do no act in further violation of our statutes relating to pools, trust, conspiracies and discriminations. Our judgment should further provide that if our judgment of ouster be suspended upon the conditions mentioned, yet we shall continue control of the case to the end that if upon the motion of the Attorney General it is made to appear that the conditions imposed have been violated, then we can make such ouster absolute.

In this opinion I have not made the facts as full as I would otherwise have done, owing to the statement of facts in the principal opin-

ion. These however, express my views of the case in my own way and from my viewpoint of the record. Woodson, J. concurs in toto, Lamm and Brown, J.J. concur in the judgment in the case as made in this opinion. Ferris, J., concurs in the judgment in the case as made herein, except as to the fine. As to the fine he does not agree to this disposition and is opposed to a fine.

W. W. GRAVES, J.

In the Supreme Court of Missouri, in Banc, October Term, 1911.

STATE OF MISSOURI ex Inf. Attorney General, Relator,

v.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, Respondent.

*Separate Opinion.*

In this case the court is required by the statute to pronounce a judgment of condemnation upon a combination which is proved by the facts as they appear in this record to have been so far beneficial to the community. The record shows the facts to be as indicated in the opinion of the chief justice, namely, that the price of mowers and reapers has not been raised in proportion to the increased cost of materials and labor, and that otherwise incidental benefits have accrued to the consumers, and furthermore, that independent manufacturers have not suffered by reason of the combination. Yet, it must be concluded from the facts in evidence that this combination was created in order to prevent the competition which had up to that time existed between the various corporations which were finally merged in the New Jersey company, and that the combination did prevent such competition. It appears further that the competition which existed between the various members of this present combination was extreme and ruinous in character, and, if continued, might have resulted in the demoralization of the trade, to the injury of the consumers. The statute, however, is plain in its terms, and indicates very clearly that it was the purpose of the Legislature to forbid a license in this State to any foreign corporation which should prove to be a member of any combination organized to lessen competition, and this without regard to the question whether the consumer would be injuriously affected. Such drastic law was regarded, no doubt, as necessary in order to prevent evils which might flow from a combination intended to prevent competition.

It cannot be doubted that combinations may be formed to create a monopoly to the injury of consumers, and yet it must be conceded that the industrial development of the country has indicated to the minds of practical men that its successful continuation requires the aggregation of capital in order to cheapen the cost of production and fully develop the possibilities of the particular industry involved. Economically, it should be to the advantage of the consumer to have the cost of production reduced to the lowest point practicable. The problem confronting the legislator is how to secure the benefit of a lower cost of production to the consumer without permitting com-

binations of capital which shall result in oppression. Of necessity, when different manufacturers in the same line of business combine their capital to create one organization where several existed before, competition between the members of such organization must cease, but such combination should benefit the consumer by allowing him to participate in the profit resulting from the lower cost of production. If such result is obtained, obviously there can be no objection to the combination itself.

The objection is against unjust exactions from the consumers in the shape of profits on fictitious values, watered stocks, and enormous commissions to promoters. In this case the promoter received more than two millions. There would be little danger to the country from combinations if they were organized and operated along the lines of plain *a, b, c*, honesty.

The right of capital to employ itself in the way most advantageous to its possessor is a natural and legal right, provided it is not exercised to the injury of the people. In my judgment, the present law against pools, trusts and combinations is ineffective to protect the people against combinations of capital. The courts may dismember an organization, but they will hardly attempt to confiscate its property; so that, after dismemberment, the ownership and control will continue substantially as before. To permit combinations to exist and at the same time secure to the people the natural and legitimate benefits of such combination is a problem not yet solved. To forbid, as the law in question does, the existence of all combinations that lessen competition compels a halt in the natural march of industrial development, and deprives the people of the benefits which should result from improved business methods. However, it is the duty of the court to construe and enforce the law. In obedience to this duty I concur in the opinion in this case, and in the judgment so far as it ousts the defendant from the right to do business in this State so long as it is a member of the combination. I do not, however, agree that the company should be fined, because in my judgment such penalty is not required by the statute.

FRANKLIN FERRISS, J.

And thereafter, to-wit, on the 20th day of November, 1911, the Court made and entered of record the following:

14546.

STATE ex Inf. Attorney General, Inf.,

vs.

INTERNATIONAL HARVESTER COMPANY, Respondent.

Comes now the said Respondent, by attorney, and files its motion for a rehearing herein and to modify the judgment herein.

In the Supreme Court of Missouri, Court in Banc, October Term,  
1911,

No. 14546,

STATE ex Informatione Attorney-General E. W. MAJOR, Relator,  
v.  
THE INTERNATIONAL HARVESTER COMPANY OF AMERICA, Re-  
spondent.

*Motion for Rehearing.*

Now this day comes respondent, by its attorneys, and moves the court to set aside the judgment in this case rendered, and to grant respondent a rehearing; and for reasons for said motion, assigns the following, to wit:

(1) Because the majority of the court, in the opinion delivered by the learned Chief Justice, summed up the facts as follows:

"On the whole, the evidence shows that the International Harvester Company has not used its power to oppress or injure the farmers who are its customers."

which finding of fact was pursuant to, and in conformity with, the finding of the Special Commissioner who heard the evidence in this case and to whose finding no exceptions were filed by the State.

Which said finding was further expressed in the separate opinion of Ferriss, J., as follows:

"The record shows the facts to be as indicated in the opinion of the Chief Justice, namely, that the price of mowers and reapers had not been raised in proportion to the increased cost of materials and labor, and that otherwise incidental benefits have accrued to the consumers; and, furthermore, that independent manufacturers have not suffered by reason of the combination."

Nevertheless, the court assessed, against respondent, whose business has been beneficial to consumers and conducted in a manner beyond criticism by the court, a fine which placed respondent upon the same plane precisely, and in the same class, with corporations whose business methods have been heretofore condemned by this court as injurious, oppressive and unfair.

It is, therefore, respectfully submitted that the respondent, under the findings of the court and the record in this case, should not be subjected to such a fine.

(2) Because the court has overlooked the fact that the only act for which, and upon which, judgment against respondent is entered is that respondent, outside of this State, entered into a contract or arrangement by which its property and business became combined with other properties and businesses with which it was formerly in competition, and that nothing was done within this State to accomplish such combination, but that such combination was arranged for and entirely completed outside the State of Missouri.

(3) Because, under the construction of the statutes by the opinion, any combination between two or more competing corporations, whereby their property is united in one ownership, and thereby competition between the former owners is necessarily ended, in and of itself constitutes a violation of said statutes, and is prohibited thereby; and the decision, in this respect, is in conflict with the following provisions of the statutes expressly authorizing corporate consolidations: Sections 10632, 3337, 3346, 3403, 3077 of the Revised Statutes of the State of Missouri, and with the opinion in *State v. Continental Tobacco Co.*, 177 Mo. 1, 1, c. 30-32.

(4) Because the statutes of the State, upon which the decision of the court is founded, as construed by that decision, are in violation of article I, section 8 of the Federal Constitution and of the Fourteenth Amendment to the Federal Constitution, for reasons set out in respondent's brief; and because the judgment of the court, as rendered herein, is in violation of article I, section 8 of the Federal Constitution and of the Fourteenth Amendment to the Federal Constitution.

Respectfully submitted,

SELDEN P. SPENCER,  
W. M. WILLIAMS,

*Attorneys for Respondent.*

EDGAR A. BANCROFT,  
*Of Counsel.*

In the Supreme Court of Missouri, Court in Banc, October Term,  
1911.

No. 14546.

STATE ON INFORMATION. Attorney-General E. W. MAJOR, Relator,  
v.

THE INTERNATIONAL HARVESTER COMPANY OF AMERICA, Re-  
spondent.

*Suggestions in Support of Respondent's Motion for Rehearing.*

Respondent invokes a reconsideration by the court of the judgment entered in this cause. A fine of \$50,000 has been imposed. It is equal to the largest ever assessed in this State, so far as counsel are advised. As the court indicates, when we come "to consider the penalty to be adjudged, the past conduct of the party in the exercise of its power is a fact worthy of consideration."

Since 1902 respondent has been in business in Missouri, selling the manufactured products of the International Harvester Company. After an extended and detailed examination into its conduct, business methods and effect upon competitors, dealers and consumers alike, the court, in its opinion by Chief Justice Valliant, has found:

"The price of harvester machines was not materially higher after the New Jersey corporation entered the field than it was before, until 1908, when it was increased eight or ten per cent., whilst in the meantime there had been a greater increase in the price of the material and labor used in their construction. The evidence also

shows that whilst harvesting machines were the chief products of the companies absorbed by the International Harvester Company, that company has greatly enlarged its business and extended it to many other farm implements, and has thus put itself in competition with the many concerns that theretofore were and still are engaged in manufacturing such other farm implements, and the farmers generally have profited thereby. The evidence also shows that the machines manufactured by the International Company have been greatly improved in quality and the item of repair material has been reduced in price and placed within closer reach of the farmer. On the whole, the evidence shows that the International Harvester Company has not used its power to oppress or injure the farmers, who are its customers."

This finding of the court has been further emphasized in the separate opinion of Ferriss, J.

"In this case the court is required by the statute to pronounce a judgment of condemnation upon a combination which is proved by the facts, as they appear in this record, to have been so far beneficial to the community. The record shows the facts to be as indicated in the opinion of the Chief Justice, namely, that the price of mowers and reapers has not been raised in proportion to the increased cost of materials and labor, and that otherwise incidental benefits have accrued to the consumers and, furthermore, that independent manufacturers have not suffered by reason of the combination."

More than this, the record in this case shows that from the moment when the information was filed, respondent has produced for the State every paper or witness by it desired, and has fully and frankly disclosed the entire record of its origin, the conduct of its business, and every fact bearing in any degree upon the questions at issue.

The finding of the court follows the undisputed evidence and the conclusion of the Commissioner, who, after referring to the organization of the New Jersey Company and respondent's connection therewith, said:

"I fail to find, in the evidence, any other substantial ground upon which the license, right and privilege to do business in this State should be forfeited."

To this finding no exception was filed by the State.

In view of these conclusive findings of fact as to the conduct of respondent, during the many years of its operations in this State, we most earnestly and respectfully present to the court, for its consideration, whether, in justice to this Honorable Court as well as to respondent, it should be fined for the acquisition of power, which it has never injuriously exercised, to the same amount as has been imposed upon those corporations whose business methods and conduct have been judicially characterized as intentionally and flagrant and most profitably oppressive of competitors and the public. It seems inequitable that the mere possession of power should be so severely penalized as the willful abuse of it.

What effect will it have in the business conduct of large corpora-

tions if those whose commercial careers have been admittedly upright and fair and beneficial are punished with the same severity as is meted out to those who are adjudged guilty of oppressive and continued wrongdoing.

The amount of the fine is large, and, for that reason, is a matter of importance to respondent, but much more important to it and to its officers is the imputation of unfair and wrongful conduct cast upon them by such a fine. In the eyes of the public, such a penalty at once classifies them with those other corporations whose wrongful and oppressive conduct toward competitors and consumers has been severely condemned by this court—corporations whose resistance to investigation and attempts at concealment have caused the State great expense of time and money.

Few persons know of the findings of the court which vindicate the fair and beneficial conduct of respondent, while information of the fine is spread broadcast, and is accepted as indubitable proof of moral turpitude in the conduct of respondent's business, and thus it inflicts upon respondent an injury not at all intended by the court, for respondent's largest asset in its business today is the confidence and respect of the thousands of dealers and the many thousands of farmers who are its customers.

Respondent has annually paid its full taxes on all the property subject to taxation in this State, together with all license fees imposed by either State or municipal regulation. If the State license fee had been fixed on the basis of the value of all the property situated in Missouri, it would not be, even now, under the most liberal apportionment, over 81.52% on the basis of \$3,000,000, which largely exceeds either the proportion of capital invested in this State or the actual value of all the property of both the respondent and the New Jersey Company in this State.

Ex-President Roosevelt, in a recent article, has so aptly followed the lines indicated by the opinion of the court in this case that, to quote this language:

"We demand that big business must give the people a square deal; in return, we must insist that when any one engaged in big business honestly endeavors to do right, he shall, himself, be given a square deal."

"We need to formulate immediately and definitely a policy which, in dealing with big corporations that behave themselves, and which contain no menace save what is necessarily potential in any corporation which is of great size and very well managed, shall aim, not at their destruction, but at their regulation and supervision."

## II.

The other grounds for the motion have been fully discussed in respondent's brief, heretofore filed on the hearing.

Respectfully submitted,

SELDEN P. SPENCER,  
W. M. WILLIAMS,

*Attorneys for Respondent.*

EDGAR A. BANCROFT,  
*Of Counsel.*



And thereafter, to-wit, on the 27th day of November, 1911, the Court made and entered of record the following:

14546.

STATE ex Inf. Att'y Gen'l Inf.  
vs.  
INTERNATIONAL HARVESTER COMPANY, Resp.

Now at this day the Court having considered and fully understood the respondent's motion for a rehearing and to modify the judgment herein, doth order that the judgment rendered herein on November 14th, 1911, be and it is hereby modified, to the extent of reducing the fine of \$50,000 therein imposed to \$25,000 in other respects that judgment will stand as rendered and the motion for a rehearing is overruled.

Now at this day the Court having considered and fully understood the application of Hon. Theodore Brace for an allowance as Commissioner herein, doth order that he be and he is hereby allowed the sum of \$5,000 for his services as such commissioner, and the sum of \$431.00 for his expenses incurred as such commissioner. From the said sum of \$5,000 for his services, is to be deducted the sum of \$900, advanced to the Commissioner, one-half by the Attorney General for the State and one-half by the respondent, the amount to be paid to the Commissioner being \$4531 to be taxed as costs. And the said sum of \$450 advanced by the Attorney General on the part of the State is to be taxed as costs in favor of the State. It is further ordered by the Court that the sum of \$1561.80 be and the same is hereby allowed in favor of J. L. Roberts, for his services as stenographer herein and for expenses incurred, to be taxed as costs. It is further ordered by the Court that the fees of witnesses for attendance and mileage for the State and for the respondent, as shown by the Commissioner's report, be and they are hereby allowed, and ordered taxed as costs.

In the Supreme Court of Missouri, in Banc, October Term, 1911

No. 14546.

STATE ex Informatione Attorney General E. W. MAJOR, Relator  
vs.

THE INTERNATIONAL HARVESTER COMPANY OF AMERICA,  
Respondent.

PER CURIAM:

Upon motion for re-hearing, the judgment heretofore agreed upon in this cause is modified so as to reduce the fine imposed upon respondent from fifty thousand dollars to twenty-five thousand dollars and said judgment as modified is approved and respondent's motion for rehearing denied.

In the Supreme Court of Missouri, Court in Banc, October Term,  
1911.

No. 14546.

STATE ex Informatione Attorney-General E. W. MAJOR, Relator,  
vs.

THE INTERNATIONAL HARVESTER COMPANY OF AMERICA,  
Respondent.

On Motion to Modify Judgment.

I do not concur in the judgment of the majority, on respondent's motion to modify, by which judgment the fine or penalty is reduced from \$50,000 to \$25,000. I think the fine as originally fixed was low enough and yet a dignified sum for the case. I have always been conservative in matters of this kind. In Separate opinion in case of State ex Inf. vs. Standard Oil Co., 218 Mo. l. c. 473, I said:

"The opinion calls for but one judgment as to all respondents, that of ouster. Ouster as to the Standard Oil Company of Indiana and the Republic Oil Company is but slight punishment, for they can continue in business elsewhere. In my way of thinking, these companies should not only be ousted of their license to do business in this State, but that a substantial fine should be added. I also think that as to the Waters-Pierce Company, the judgment of ouster should not go. As to it, a judgment of guilt should be entered, and a reasonable fine fixed. Even this would be harsh upon the minority stock ownership in the corporation, but as the corporation has violated the law in our discretion we should fix a reasonable punishment. That of ouster, called for by the opinion of my brother, is more than a reasonable punishment. We have full precedents in this court in the Insurance Trust Case, as in others decided by this court.

I, therefore, concur in the opinion of my brother as to a general judgment of guilty, but think the punishment as to two of the respondents as indicated by the opinion, is insufficient, and that of the other, the Waters-Pierce Company, is excessive.

And when I suggest that the punishment of the two is not sufficient I do not mean to say that courts should become crazed upon any subject or against any interest, but should be governed by that calm judicial judgment that has always characterized the decree of unbiased judicial tribunals. Popular crazes have no place in the judicial opinion. With these views firmly fixed, I feel that I should insist upon modification of the judgment indicated by the opinion to the extent herein stated. Otherwise I concur."

From that conservation there expressed I do not desire to depart in this case, although such conservation was liable to be shocked by the \$1,000,000 fine urged by part of the Court in the Standard Oil case. In case of State ex Inf. v. Delmar Jockey Club, 200 Mo. 34, no fine was inflicted by a majority of the Court, but it must be

recollected that in that case an absolute ouster was fixed as a punishment. In the Standard Oil case, *supra*, we recognized the right of the Court to fix a fine, in addition to an absolute ouster, for in that case, we granted an absolute ouster as to two of the respondents, and in addition required each of them to pay a fine of \$50,000. As to the third respondent, the Waters-Pierce Oil Co., we granted a conditional ouster as in this case, and fixed a fine of \$50,000.

The evidence in the Standard Oil case shows that the Standard Oil Company proper, had acquired a bare majority of the stock in the Waters-Pierce Oil Company and had gained control over the company by reason thereof. Mr. Pierce, the leader of the minority stock had fought against the violation of the law. So strong was his opposition to the course of conduct which violated our laws, that he was deposed as the head of the corporation which he organized and which bore his name. This was a matter of consideration in fixing the fine in that case, because such fine had to be borne by the minority stock holders as well as by the majority stock holders. These minority stock holders had opposed the violation of law, although their corporation through the majority holding had violated the law.

We have nothing like this in the case at bar. In the case at bar not a finger was raised against the open and flagrant violation of our law. The respondent was licensed to do business in this State. It was in this State in open competition with other Harvesting companies. Its stock was sold to J. P. Morgan and Company and for a short time it continued as before in this State. Shortly, however, respondent, in utter disregard to our laws entered into the arrangement by which competition in farm machinery became a thing of the past. From that time (1902) to this, it has openly and notoriously violated our laws by maintaining the original unlawful arrangement. For nine years it has been permitted to pilfer the pockets of the agriculturalists of this state, and now it is said that a fine of \$50,000 is too much. It is now said that \$25,000 is sufficient. We do not feel that the matter should pass without notice, and hence this opinion.

Nor is this continuous violation of law all that should be considered. Respondent, as the Milwaukee Harvester Co., had a capital stock of \$750,000. When the Morgan crowd got hold of it, this stock was raised to \$3,000,000. Under the law it has paid taxes in Missouri only on a basis of the proportional part of that stock used in Missouri.

During all this time, under the evidence, it was really the agent of the International Harvester Co., the New Jersey corporation. The latter was a \$120,000,000 concern. Had this latter company undertaken to do business in this State, it would have been compelled to pay taxes on the proportionate part of \$120,000,000 which was used in Missouri, instead of the proportionate part of \$3,000,000. The whole thing was a cunning device to enable the big corporation to do business in Missouri by the payment of about one-fortieth of the taxes which it otherwise would have been compelled to pay. In other words, the State has lost taxes in the same propor-

tion as the \$3,000,000, the capital stock of the one concern, is to \$120,000,000, the capital stock of the real party in interest. To this scheme and device the respondent in this case, was a party. This scheme and device was executed by the respondent under its license in Missouri. Through the act of respondent the State has lost in taxes more than the fine fixed, to leave out of consideration entirely the flagrant violation of our laws and the filched pocket books of purchasers of reapers, mowers and binders.

Nor do we concur in any velvet-like language used by respondent's counsel in the brief which would make this respondent and its co-conspirators appear as angels of mercy to the buying public of Missouri. Its sole purpose was to stifle competition and ruin prices. Prices were lowered in 1903, after the combine. See record of evidence, page 413-429 and 468. That this was to further drive out competitors, there can be no question. That it turned out as the parties thought it would, is evidenced by the fact that in that year the combine was able to take over the D. M. Osborne Co, a strong competitor, as well as other smaller concerns. Later prices were raised, and but for vigorous prosecution would no doubt have been repeatedly raised by slight and gradual advances. To all of those acts, the respondent at bar was an active party. Different was the acts of Pierce and his parties in the Standard Oil case. There we had something upon which to base the merciful action of the Court, but here we have not.

To conclude, the respondent in this case has (1) openly violated our laws, whilst domiciled in this State, by entering into an arrangement to thwart competition, (2) defrauded the State of taxes to which it was entitled, (3) has participated in lowering prices and driving other competitors from the field, (4) has for nine years maintained an unlawful arrangement to decrease competition in this State contrary to our laws, and (5) has by its conduct been able to filch the purse of our agriculturalists. If the original judgment of a fine of \$50,000 is not exceedingly reasonable, then my conservatism has indeed been warped.

For these reasons, I dissent from the judgment of the majority in reducing the fine in this case. Woodson, J., concurs in these views.

W. W. GRAVES, J.

And thereafter, to-wit, on the 6th day of December, 1911, the Court made and entered of record the following:

STATE OF MISSOURI ex Informations E. W. MAJOR, Attorney-General, Informant,

vs.

THE INTERNATIONAL HARVESTER COMPANY OF AMERICA.

"Quo Warranto."

Now at this day, there is presented to the Honorable Leroy B. Valliant, Chief Justice of the Supreme Court of Missouri, in Chambers, a writ of error to the Supreme Court of the United States, a

citation directed to the said informant, citing and admonishing it to appear at the Supreme Court of the United States on the 5th day of January, A. D. 1912, an assignment of errors, and a bond in the sum of fifty thousand dollars (\$50,000) which said writ of error is allowed, said citation signed and issued, said assignment of errors filed, and said bond approved and ordered filed and made a part of the record herein.

Which said assignment of errors is in words and figures as follows, to-wit:

In the Supreme Court of the State of Missouri. In Banc.

No. 14546.

STATE OF MISSOURI ex Inf. Attorney-General, Relator.

VS.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, Respondent.

*Application for Writ of Error.*

Comes now the International Harvester Company of America, Respondent in the above entitled cause, and respectfully represents:

That said proceeding was to oust respondent, a foreign corporation, from the right to do business in said State of Missouri, on the ground that Respondent had violated the anti-trust laws of said state;

That heretofore, to-wit, on the 14th day of November, there was entered, in said cause, a judgment fining Respondent in the sum of Fifty Thousand (\$50,000) Dollars and ousting it from the right to do business in Missouri; and subsequently, on the 27th day of November, 1911, the amount of said fine was reduced from Fifty Thousand (\$50,000) Dollars to Twenty-five Thousand (\$25,000) Dollars; and the motion for rehearing, which had theretofore been filed within time by the respondent, was overruled; and, in other respects, the judgment was ordered to stand as rendered;

That said judgment is a final judgment and was rendered by the highest court of the State of Missouri, and involved in its determination certain Federal questions which were decided adversely to the right claimed by Respondent;

That, in the said judgment, the Court erred in the following particulars, to the prejudice of Respondent:

(a) The Statute of Missouri (Section 10298, Revised Statutes, 1909) enforced by the Court in its said judgment, provides:

"Any person who shall \* \* \* enter into \* \* \* any agreement \* \* \* in restraint of competition \* \* \* shall be deemed and adjudged guilty of a conspiracy in restraint of trade, and shall be punished as provided in this Article;"

and that such Statute, as literally construed and applied to Respondent by the judgment in this cause, impairs the obligation of contracts, prohibits the free exercise of contract, takes property

without due process of law, denies to Respondent the equal protection of law, and interferes with interstate commerce, all contrary to Section 10 and Section 8 of Article I of the Constitution of the United States, and Section 1 of the Fourteenth Amendment to said Constitution respectively.

(b) Section 10301 of the Revised Statutes of Missouri, 1909, as enforced by the Court in its said judgment and decree, provides that:

"All arrangements \* \* \* made or entered into between any two persons designed or made with a view to lessen, or which tend to lessen, \* \* \* full and free competition in the importation, transportation, manufacture or sale, in this state, of any product, commodity or article, \* \* \* are hereby declared to be against public policy, unlawful and void; and any person or persons creating, entering into, becoming a member of, or participating in such arrangements shall be deemed adjudged guilty of a conspiracy in restraint of trade, and punished as provided for in this article;"

that said section, as enforced by the Court in its said decree, impairs the obligation of contracts, prevents the free right of contract, interferes with interstate commerce, takes property without due process of law, and denies the equal protection of the laws,—all in violation of Section 10 and Section 8 of Article I of the Constitution of the United States, and of Section 1 of the Fourteenth Amendment to the said Constitution, respectively.

(c) That said judgment of the Court, in thus construing and applying the Anti-Trust Laws of Missouri in this cause, amounts in its consequences under said laws to a confiscation of Respondent's property, or a corporate attainder, in that Section 8975, Laws of Missouri, 1907, page 380 (Revised Statutes 1909, Sec. 10308) provides that after such judgment of ouster has been entered, it shall

"be unlawful for any person, corporation, or association of persons to deal in or offer for sale in this State any article of manufacture \* \* \* made, produced, manufactured, or dealt in by any corporation, whose rights, franchises, or privileges have been so declared to be forfeited;"

and such provisions shall apply

"in all respects to the successors or assigns of any corporations whose rights, franchises or privileges have been so declared to be forfeited;" which penalties under said statute become part of and necessarily follow said judgment.

Therefore, said judgment of fine and ouster is a taking of Respondent's property without due process of law, in violation of Section 1 of the Fourteenth Amendment of the Constitution of the United States.

(d) Sections 10298, 10301 and 10304 of said Revised Statutes of 1909, as construed and applied by the Supreme Court of Missouri, in this cause, are violative of Section 1 of the Fourteenth Amendment to the Constitution of the United States, because they do not prohibit the vendors of other articles of sale, such as labor and

service of individuals and public-service corporations, from combining to fix prices or to lessen competition in the sale of such articles of labor or service, and because they do not condemn like agreements and combinations between purchasers of articles of trade and commerce to limit or lessen competition in the purchase thereof.

(e) Because said Sections 10298, 10299, 10301, and 10304, as construed by the Court and applied in said judgment, under the admitted facts and findings in this record, forbid every contract or arrangement which tends to lessen full and free competition, and as thus construed forbid the ordinary harmless and useful contracts of trade, and said judgment is a taking of respondent's property without due process of law, contrary to Section 1 of the Fourteenth Amendment to the Constitution of the United States.

(f) By the finding of the Court upon the undisputed evidence in the record, respondent is engaged in Missouri in interstate, as well as intrastate, business of a harmless and beneficial character, and the Court, in its said judgment, gave to said Sections 10298, 10299, 10301, and 10304 an extraterritorial effect, in that the Court, by its said judgment, punished respondent for transferring its property to a New Jersey corporation, which transfer and arrangement were entirely accomplished and ended outside the State of Missouri, and although said business within the State was not harmful but beneficial to the people of the State, and was not in furtherance of any such combination or arrangement; and said judgment, for this reason, is in violation of Section 8 of Article I of the Constitution of the United States regulating interstate commerce, as well as of Section 1 of the Fourteenth Amendment of said Constitution, prohibiting the taking of property without due process of law;

(g) Because said Sections 10298, 10299, 10301 and 10304, as construed by the Court and enforced by the judgment in this case, are violative of the Fourteenth Amendment to the Federal Constitution, in that said statutes unreasonably limit the right to contract, and go beyond what is necessary for the public protection, in that they prohibit two or more competitors from combining their property and business under one bona fide ownership, whether reasonable and beneficial, or otherwise.

(h) In entering against respondent both a decree of ouster and forfeiture of its corporate license and franchise to transact business in said state and assessing a fine when, under section 10304, R. S. Mo. 1909, upon which said decree was based, the penalty is in the alternative; and by thus assessing against respondent both ouster and fine, there was denied to respondent the equal protection of the law, and its property was taken without due process of law, contrary to the provision of section 1 of the Fourteenth Amendment to the Constitution of the United States;

(i) The decree, that respondent should pay a fine of Twenty-five Thousand (\$25,000) Dollars, is an exercise of criminal jurisdiction in an original civil proceeding in said Court; whereas, said Court has no original jurisdiction in criminal cases, and therefore assessed against this respondent a criminal punishment which it was without power to assess against an individual, and, in that respect, denied



to respondent the equal protection of the law, and deprived respondent of its property without due process of law; all in violation of section 1 of the Fourteenth Amendment to the Constitution of the United States;

(j) In denying the respondent the protection of the Constitution of the United States and the Amendments thereto in each of the respects claimed by the respondent in its answer and return and other pleadings filed in said cause, and as well claimed by respondent in its briefs filed therein, and as well claimed by respondent in its motion for rehearing in said cause, which said motion was by said Court overruled:

Wherefore, respondent, assigning the foregoing errors, prays that a writ of error may be allowed to the Supreme Court of the United States.

SELDEN P. SPENCER,  
W. M. WILLIAMS,

*Attorneys for Respondent.*

E. A. BANCROFT,

*Of Counsel.*

Let the writ of error issue as prayed December 6, 1911.

LEROY B. VALLIANT, C. J.

And which said bond is in words and figures as follows, to-wit:

*Bond.*

Know all men by these presents, that we, International Harvester Company of America, a corporation organized and existing under and by the laws of the State of Wisconsin, as principal, and National Surety Company, as surety, are held and firmly bound in the penal sum of Fifty Thousand Dollars (\$50,000), to be paid to the State of Missouri, for the benefit of whom it may concern, and for the payment whereof, well and truly to be made, we hereby jointly and severally bind ourselves, our successors, and assigns, firmly by these presents:

The condition of this obligation is such, that, whereas in the Supreme Court of the State of Missouri, in the cause entitled, "The State of Missouri, on the Information of the Attorney-General, v. International Harvester Company of America," being No. 14546, where judgment has been rendered ousting the International Harvester Company of America from the right to do business in the State of Missouri and fining it in the sum of Twenty-five Thousand Dollars (\$25,000); and

Whereas, it is the desire of the International Harvester Company of America, the said Respondent, to review the said judgment and decision of said Court in the Supreme Court of the United States, and to that end a Writ of Error has been by said International Harvester Company of America prayed for and allowed by the Chief Justice of the Supreme Court of Missouri:

Now, therefore, if the said International Harvester Company of America shall prosecute its said Writ of Error to effect and answer all damages and costs which may be adjudged against it, then this Bond to be null and void, otherwise to remain in full force and effect.

In witness whereof, the International Harvester Company of America has caused these presents to be signed by its President, and its corporate seal to be hereto attached, attested by its Secretary, duly authorized thereto; and the said National Surety Company has caused these presents to be signed by Homer H. McKee and T. J. Loranger its Resident Vice President and Resident Asst. Secretary this 6th day of December, A. D. 1911.

INTERNATIONAL HARVESTER COM-  
PANY OF AMERICA,  
By R. C. HASKINS, *Its President.*

Attest:

E. N. WOOD,  
*Secretary.*

NATIONAL SURETY COMPANY,  
[SEAL.] By HOMER H. McKEE,  
*Resident Vice-President.*

Attest:

T. J. LORAUGER, [SEAL.]  
*Resident Assistant Secretary.*

The foregoing supersedeas bond is hereby approved this sixth day of December, A. D. 1911.

LEROY B. VALLIANT,  
*Chief Justice.*

In the Supreme Court of Missouri.

STATE EX Inf. Attorney General, Informant,

vs.

INTERNATIONAL HARVESTER COMPANY OF AMERICA, Respondent.

Now on this 30th day of December, 1911, comes the Clerk of this Court and upon his application, and for good cause shown, it is ordered by me, the undersigned Chief Justice of the Supreme Court of the State of Missouri, that the time for preparing the transcript herein to the Supreme Court of the United States be extended thirty (30) days from and after the fifth day of January, 1912.

LEROY B. VALLIANT,  
*Chief Justice of the Supreme Court of Missouri.*

In the Supreme Court of the United States, October Term, 1911.

No. 934.

INTERNATIONAL HARVESTER COMPANY OF AMERICA,  
Plaintiff in Error,

v.

STATE OF MISSOURI, ex Rel. Elliott W. Major, Attorney General,  
Defendant in Error.

Writ of Error to the Supreme Court Missouri.

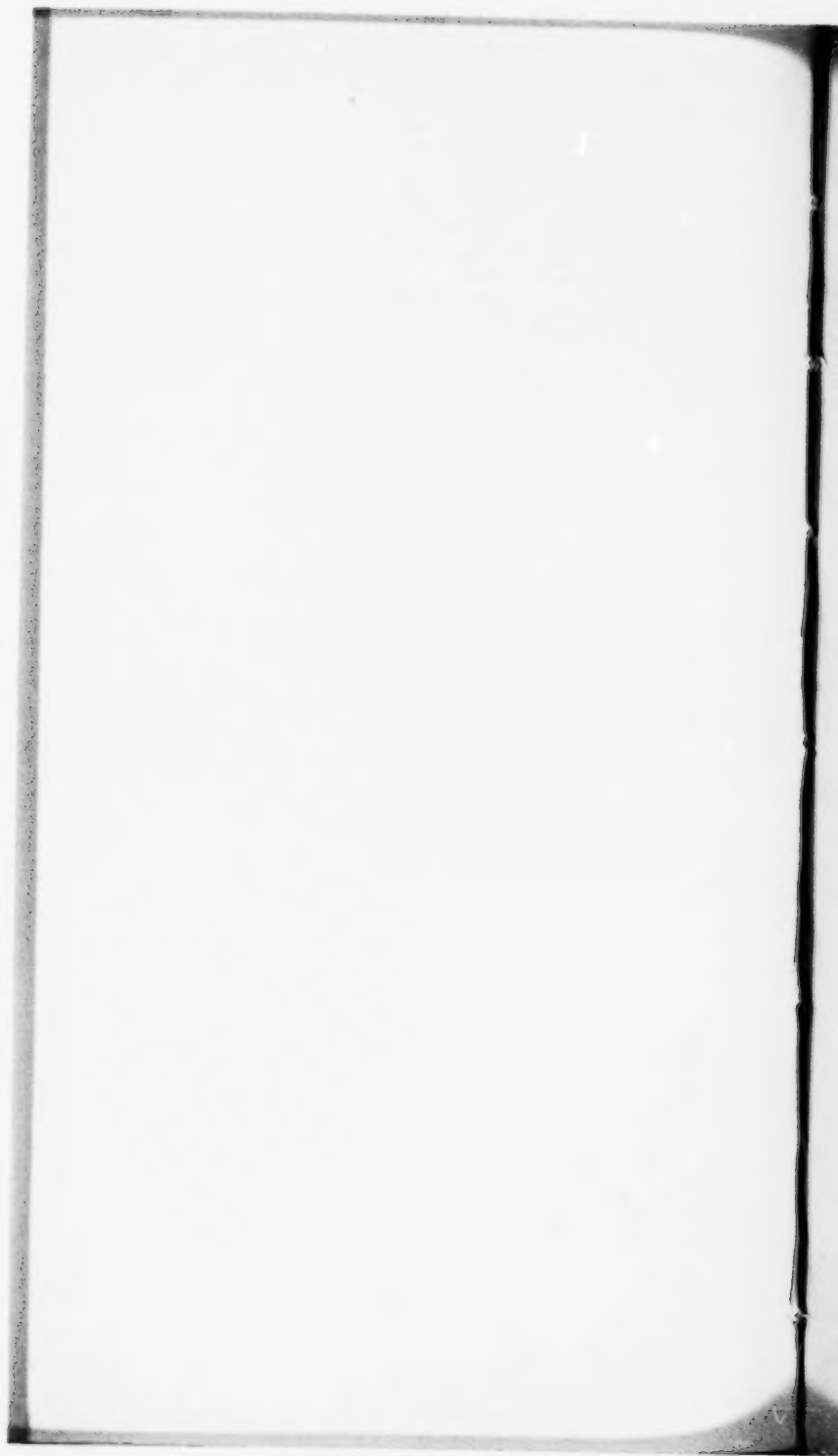
*Stipulation.*

It is hereby stipulated between the parties that in the printing of the certified transcript of the record in the Supreme Court of Missouri, the orders of the Court and the Commissioner and proceedings other than the printed abstract of record and transcript of evidence taken before the Commissioner may be printed separately and added to said printed abstract and transcript filed in the Supreme Court of Missouri, instead of inserting said orders and other proceedings before and in the course of said printed abstract and transcript; the purpose of this stipulation being to permit the Clerk herein to use, without rebinding, said printed abstract and transcript. It is also stipulated that the Clerk may page the printed copy of the certified transcript consecutively, beginning with the paging of said printed abstract and transcript, but referring by star paging or otherwise to the pages giving such orders and other proceedings in the certified transcript.

EDGAR A. BANCROFT,  
*Attorney for Plaintiff in Error.*  
ELLIOTT W. MAJOR,  
*Attorney General of Missouri,*  
*Attorney for Defendant in Error.*

[Endorsed:] File No. 23,010. Supreme Court U. S. October Term, 1911. Term No. 934. International Harvester Company of America, Plff in Error, vs. The State of Missouri, etc. Stipulation as to printing record. Filed June 7, 1912.

Endorsed on cover: File No. 23,010. Missouri Supreme Court. Term No. 518. International Harvester Company of America, plaintiff in error, vs. The State of Missouri on the information of its Attorney General. Filed January 16th, 1912. File No. 23,010.



DEC 15 1913

JAMES D. MAHER

CLERK

IN THE  
Supreme Court of the United States

OCTOBER TERM, 1913.

No. 166.

INTERNATIONAL HARVESTER COMPANY OF  
AMERICA, Plaintiff in Error,

v.

STATE OF MISSOURI ON THE INFORMATION OF  
ELLIOTT W. MAJOR, ATTORNEY-GENERAL,  
Defendant in Error.

MOTION TO DISMISS WRIT OF ERROR OR TO  
AFFIRM JUDGMENT.

JOHN T. BARKER,

Attorney-General of Missouri,

W. T. RUTHERFORD,

THOMAS J. HIGGS,

Assistant Attorneys-General of Missouri,

Counsel for Defendant in Error.



IN THE  
Supreme Court of the United States

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OCTOBER TERM, 1913.

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No. 166.

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INTERNATIONAL HARVESTER COMPANY OF  
AMERICA, Plaintiff in Error,

v.

STATE OF MISSOURI ON THE INFORMATION OF  
ELLIOTT W. MAJOR, ATTORNEY-GENERAL,  
Defendant in Error.

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MOTION TO DISMISS WRIT OF ERROR OR TO  
AFFIRM JUDGMENT.

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Comes now the State of Missouri, the defendant in error in the above entitled cause, by its counsel, John T. Barker, the Attorney-General of the State of Missouri, and respectfully moves the court to dismiss the writ of error herein for the following reasons, to wit:

First: Because it appears from the record that the judgment or decree herein is the judgment or decree of



the Supreme Court of one of the United States, to wit, the Supreme Court of the State of Missouri, and this court is without jurisdiction.

Second: Because it is apparent from the record that no federal question was involved in the pleadings, trial, proceedings and determination of said cause either before the Special Commissioner or in the Supreme Court of the State of Missouri.

Third: Because it is apparent from the record that no federal question was presented to the Supreme Court of the State of Missouri for determination in said cause.

Fourth: Because it is apparent from the record that no decision of any federal question was necessarily involved in the rulings, findings, opinions, judgments and decrees either of the Special Commissioner or of the Supreme Court of the State of Missouri in said cause.

Fifth: Because it is apparent from the record in said cause that neither the validity of any treaty or statute or any authority exercised under the United States was in anywise drawn in question in said cause, and there was no decision or judgment against the validity of any such treaty, statute or authority.

Sixth: Because it is apparent from the record that neither the validity of any statute of the State of Missouri, or of any authority exercised by or under the State of Missouri, was drawn in question in said cause on the ground of repugnancy to the Constitution, treaties or laws of the United States, and there was no decision or judgment in said cause in favor of any such validity.

Seventh: Because it is apparent from the record that in the pleadings, rulings, findings, opinions, judgments and decrees of the Special Commissioner or of the Supreme Court of the State of Missouri, there is no decision against any title, right, privilege or immunity

specially set up or claimed by plaintiff in error under the Constitution, or any treaty, statute of or commission held, or authority exercised under the United States.

Defendant in error further moves the court that if the writ of error shall not be dismissed that the judgment of the Supreme Court of the State of Missouri be affirmed on the ground that although in the opinion of this court the record may show that this court has jurisdiction in the premises, yet it is manifest that said writ of error was taken for delay only, and that the question on which the jurisdiction depends is so frivolous as not to need argument or consideration.

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Attorney-General of Missouri,

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Assistant Attorneys-General of Missouri,  
Counsel for Defendant in Error.

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JAMES D. MAHE

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IN THE  
**Supreme Court of the United States**

OCTOBER TERM, A. D. 1913.

INTERNATIONAL HARVESTER COMPANY  
OF AMERICA, Plaintiff in Error,

v.

THE STATE OF MISSOURI, On the Informa-  
tion of its Attorney-General, Defendant in  
Error.

No. 166.

IN ERROR TO THE SUPREME COURT OF THE  
STATE OF MISSOURI.

BRIEF AND ARGUMENT OF DEFENDANT IN ERROR  
IN SUPPORT OF MOTION TO DISMISS  
OR AFFIRM.

JOHN T. BARKER,  
Attorney-General,  
W. T. RUTHERFORD,  
Assistant Attorney-General,  
THOMAS J. HIGGS,  
Assistant Attorney-General,  
For Defendant in Error.

IN THE  
**Supreme Court of the United States**

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OCTOBER TERM, A. D. 1913.

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INTERNATIONAL HARVESTER COMPANY  
OF AMERICA, Plaintiff in Error,

v.

THE STATE OF MISSOURI, On the Informa-  
tion of its Attorney-General, Defendant in  
Error.

No. 166.

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IN ERROR TO THE SUPREME COURT OF THE  
STATE OF MISSOURI.

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BRIEF AND ARGUMENT OF DEFENDANT IN ERROR  
IN SUPPORT OF MOTION TO DISMISS  
OR AFFIRM.

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**STATEMENT.**

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Plaintiff in error evidently does not see the force and  
effect of the motion filed by defendant in error to dismiss  
this appeal and affirm the judgment.

This was a suit brought by the State of Missouri

against the International Harvester Company of America by quo warranto alleging that it had violated the antitrust laws of the State of Missouri.

The plaintiff in error, the International Harvester Company of America, in due time filed its answer, but in said answer did not in any way suggest that the statutes of Missouri were unconstitutional, and did not in its said answer raise or attempt to raise a federal question or a constitutional question, but, as will be shown from the answer itself, it simply denied that it had violated the antitrust laws of the State of Missouri.

After the commissioner had found the plaintiff in error, the International Harvester Company of America, guilty of a violation of the Missouri antitrust laws said company for the first time claimed that the antitrust statutes of Missouri were unconstitutional, thereby attempting for the first time to raise a federal question.

The State of Missouri in filing its motion to dismiss this appeal takes the position that in as much as the quo warranto proceedings expressly charged a violation of the antitrust laws of Missouri the plaintiff in error, the International Harvester Company of America, if it wished to question the constitutionality of the antitrust statutes of Missouri, should have alleged in its answer that said statutes were unconstitutional.

In other words, the State of Missouri contends that the plaintiff in error, the International Harvester Company of America, cannot sit idly by when charged with a violation of the antitrust laws of Missouri and file an answer simply denying such violations and then, when convicted, for the first time claim that the statutes are unconstitutional.

*By not alleging the antitrust laws of Missouri unconstitutional in its answer the plaintiff in error, the Inter-*

*national Harvester Company of America, waived its right to insist upon these statutes being unconstitutional.*

In order for plaintiff in error, the International Harvester Company of America, to have this federal question passed upon by this court it is necessary that (a) a federal question was (b) duly raised and preserved (c) and which was necessarily involved in the decision of the State court.

The State of Missouri contends that there is no federal question in this record, and that no federal question was duly raised and preserved; and denies that any federal question was necessarily involved in the decision of the State court.

These questions will be treated in the order named.

#### IS THERE A FEDERAL QUESTION IN THIS RECORD?

This case was decided by the Missouri Supreme Court in 1911 in an opinion by Judge Valliant, 237 Mo. 369, and an examination of this case will show that there was never at any time a federal question in the case.

#### IF A FEDERAL QUESTION, WAS IT DULY RAISED AND PRESERVED?

An examination of the case above cited will show that:

First. There was no federal question in the Missouri State court, and,

Second. That it was not considered.

In order that the court may see that the answer of plaintiff in error, the International Harvester Company of America, did not raise a federal question or plead that the Missouri antitrust laws were unconstitutional, we set

out all of the answer which is necessary, and if the plaintiff in error alleges that it did raise a federal question or plead the unconstitutionality of the Missouri antitrust laws we ask the court to read the answer in the record at length.

The answer is substantially as follows:

#### ANSWER.

The answer recited respondent's incorporation, its various changes of name, and the fact that respondent was in 1892 licensed to do business in Missouri until December, 1931; alleges that it paid a license fee of \$76.50, purchased property of more than six thousand dollars value, and that it has been conducting its business in Missouri since 1892, setting up that these things constitute a contract between respondent and the State. It is then alleged that respondent does not now and never has manufactured farm implements, tools and machinery in Missouri, nor has it manufactured them at all for five years preceding the filing of the answer. The answer then denies that respondent has violated the laws of Missouri.


In paragraphs two, three, four, five and six of the answer respondent admits the allegations of the information as to the incorporation, licensing and business transacted in Missouri by the McCormick Harvesting Machine Company, Plano Manufacturing Company, Warder, Bushnell & Glessner Company, D. M. Osborne & Company and Aultman, Miller & Company, but denies that either of them ever manufactured implements, etc., in Missouri. It is also alleged that the last named company, "prior to July, 1903," went into bankruptcy and was by the trustee sold later to the Aultman & Miller Buckeye Company, an Ohio corporation.



In the seventh paragraph of the answer respondent admits that the companies last named, and others, were competitors in the agricultural implement, tool and machinery business up to about August 12, 1902; that D. M. Osborne & Company continued in business until some time thereafter, and Aultman, Miller & Company until it went into bankruptcy; admits the incorporation of the International Harvester Company (of New Jersey) and that its capital stock is \$120,000,000.00. It is then alleged that said company (International Harvester Company) :

“Was a new corporation, planned, organized and financed for the purpose of acquiring the materials, plants, manufacturing facilities, patent rights, and all other property and resources necessary or proper to enable it to fully carry out its corporate purposes of manufacturing and selling all kinds of farm implements, tools and machinery; that thereupon, to accomplish its corporate purposes, said International Harvester Company of New Jersey did, on or about the 13th day of August, 1902, purchase from one William C. Lane of New York all the manufacturing plants, properties, products and business which said Lane had theretofore purchased from the Milwaukee Harvester Company (respondent herein), the McCormick Harvesting Machine Company, the Plano Manufacturing Company and the Warder, Bushnell & Glessner Company, respectively, but not the capital stock of any of said companies.”

It is then alleged that neither the respondent nor the International Harvester Company of New Jersey is or has been in any wise interested in the capital stock of any



of the companies mentioned "except as respondent, and said International Harvester Company of New Jersey, are connected together in the manner hereinafter set out."

It is then alleged that the several companies have, since the sale of their assets, existed solely for the purpose of closing up their business, neither respondent nor the International Harvester Company of New Jersey having any interest in that business, nor have those companies any stock or interest in the two last named companies.

It is then set forth that, having theretofore acquired control of the capital stock of the D. M. Osborne Company, the International Harvester Company of New Jersey purchased from the Osborne Company all its physical properties, plants, business and patent rights in 1904; that said International Harvester Company of New Jersey in 1905 purchased all the plants, physical properties, business, etc., of the Aultman & Miller Buckeye Company, it being the assignee of the Aultman & Miller Company, but purchased none of its capital stock; that none of said transactions occurred in Missouri; that said purchasing company paid cash, and that none of the officers, directors or stockholders of respondent company prior to August 13, 1902, is an officer, director or stockholder of the International Harvester Company of New Jersey.

It is further stated that the D. M. Osborne Company and Aultman & Miller Buckeye Company were purchased for cash or notes and no stock given in payment, and that no stock was given in payment for respondent's property; that \$20,000,000 in cash was invested in the International Harvester Company of New Jersey by persons theretofore wholly unconnected with the agricultural implement, tool and machinery business, in the belief that the company was lawfully organized, and would prove profitable to the

investors and beneficial to consumers and dealers in implements, etc.; that the property purchased from the McCormick, Plano and Warder, Bushnell & Glessner Companies was paid for, in the most part, in stock of the International Harvester Company of New Jersey, though none of the property of respondent, D. M. Osborne Company, or Aultman & Miller Buckeye Company, was so paid for; that only three men formerly connected with the McCormick Company, and one each formerly connected with the Plano and Warder, Bushnell & Glessner Company, became officers or directors of the New Jersey company, and that none of the stockholders of respondent, D. M. Osborne Company, or Aultman & Miller Buckeye Company, became an officer or director of the New Jersey company; that none of said companies is engaged in manufacturing, and none, save respondent, engaged in selling agricultural implements, etc., nor is any one of them under the control of either respondent or the New Jersey company.

The answer then proceeds as follows:

"That when said International Harvester Company of New Jersey was formed with a capital stock of \$120,000,000.00, as aforesaid, its main purpose was the manufacture of agricultural implements, tools and machinery, and its large capitalization was necessary to furnish adequate facilities and resources for that purpose; but it was found not to be feasible for it to be also the distributor and jobber of its own manufactured products, for the reason, among others, that certain states wholly excluded from doing business therein corporations having so large a capital stock, and other states imposed a license fee for the privilege of doing business therein, based upon the total amount of the capital stock of the corporation, and not upon the amount of capital invested within the state, so that the sum thus required to pay said license fees

was often grossly out of proportion to the amount of capital invested and business transacted within such state, and was sometimes as great as the entire profit of the business which such corporation might reasonably expect to earn within such state; that it was therefore determined by the directors and stockholders of the International Harvester Company of New Jersey that said company would not engage in the business of distributing and jobbing its manufactured products, but would sell them to another corporation which would purchase said products and distribute the same to the consumers.

"That this plan was first determined upon some weeks after the International Harvester Company of New Jersey had acquired respondent's property and assets as aforesaid, but had not acquired its capital stock; and thereupon the stockholders and directors of said International Harvester Company of New Jersey decided to organize a corporation having the power to conduct the business of selling agricultural implements, tools and machinery; and thereupon it was suggested to the stockholders and directors of said International Harvester Company of New Jersey that respondent was then in existence as a corporate entity under the name of the Milwaukee Harvester Company, but without business or assets, and that it was already licensed and authorized to conduct the business of selling agricultural implements, tools and machinery in certain states, including the State of Missouri, and that its corporate organization and charter could economically be employed in carrying out the aforesaid purpose; and thereupon, for the first time, it was decided, instead of organizing a new corporation for that purpose, to acquire the capital stock of respondent and bring about an arrangement between said International Harvester Company of New Jersey and respondent, whereby the former would manufacture and sell, and

the latter would buy and distribute through local agents in the various states of the United States, including the State of Missouri, such agricultural implements, tools and machinery as should be agreed upon between them from time to time; that thereupon the capital stock of respondent, which at that time was substantially valueless because all its property of every kind and nature had theretofore been sold to the International Harvester Company of New Jersey, as aforesaid, and the proceeds thereof had been distributed to respondent's stockholders, was acquired in the interest of the stockholders of said International Harvester Company of New Jersey, and the said stock, that is to say, 9,991 shares out of the total of 10,000 shares thereof, was placed in the names of and have since been held by Charles Deering, Cyrus H. McCormick and George W. Perkins, jointly, as trustees for the stockholders for the International Harvester Company of New Jersey, as a class, and that the greater number of the persons who are now officers of respondent were, prior to the said acquisition of respondent's stock, officers of said International Harvester Company of New Jersey, and that all the persons who are now directors of respondent were at said time and now are directors of said International Harvester Company of New Jersey, that is to say, the present officers and directors of respondent were taken from the officers and directors of the International Harvester Company of New Jersey, but the said officers and directors of the said International Harvester Company of New Jersey were never composed, either in whole or in part, of those who had been connected with respondent before respondent sold its physical properties, as aforesaid, and the present directors of respondent constitute only one-half of the total number of directors of the International Harvester Company of New Jersey, respondent having nine directors, and said International

Harvester Company of New Jersey having eighteen directors; that the acquisition of the stock of respondent, as aforesaid, was not a part of the plan of the incorporation of said International Harvester Company of New Jersey, nor was it contemplated nor intended at the time of the incorporation of the International Harvester Company of New Jersey nor at the time of its purchase of the property, assets and business of respondent, nor until several weeks thereafter; and that since the month of September, 1902, in pursuance of an agreement with said International Harvester Company of New Jersey, to buy and distribute its products, respondent has been engaged in the business of selling (but not of manufacturing) agricultural implements, tools and machinery in the State of Missouri and elsewhere; that respondent has not been confined exclusively to the agricultural implements, tools or machinery manufactured by said International Harvester Company of New Jersey, but has been free to purchase when and where as it liked, and has, in fact, purchased and sold agricultural implements, tools and machinery from other manufacturers than of said International Harvester Company of New Jersey, though because of the community of interest, through their respective stockholders, nearly all of the business of respondent has been and is selling and dealing in the agricultural implements, tools and machinery manufactured by said International Harvester Company of New Jersey; that while the relation of the stockholders of the International Harvester Company of New Jersey and of respondent is as above set forth, the two corporations are separate and distinct; that respondent is engaged exclusively in the business of selling and distributing agricultural implements, tools and machinery, while the main and almost exclusive business of said International Harvester Com-

pany of New Jersey is the manufacture of such articles and the sale thereof as a manufacturer and not as a jobber and distributor.

"That respondent was not, neither were its officers or stockholders, a party to or connected with the organization of said International Harvester Company of New Jersey, or with any of the purchases aforesaid made by said International Harvester Company of New Jersey; neither did respondent or its officers or stockholders or any of them at any time have any part or interest in the forming or carrying out of the said plan of purchasing the plants, properties and business of the other companies as herein set out.

"Respondent sold its property and assets as herein set out, and several weeks after said sale, first began to purchase and distribute to the consumers thereof the products of the said International Harvester Company of New Jersey.

"That it was not the design or the purpose of the formation of the International Harvester Company of New Jersey, or of any of the said purchases made by it, nor has the result been to create a monopoly or to restrain trade in the manufacture, purchase or sale of agricultural implements, tools and machinery, sold or offered for sale in Missouri, or to regulate, control, fix or maintain the prices of agricultural implements, tools or machinery, or to limit or fix the amount or quantity of agricultural implements, tools or machinery manufactured or sold or offered for sale in the State of Missouri, or to increase the market price of said articles.

"That the real and only purpose of said purchases of the plants and properties by the International Harvester Company of New Jersey was to enable said company to avoid the large waste that had heretofore resulted from



the unbusiness-like extravagant methods which prevailed in the sale of farm implements, tools and machines, and particularly in the harvester trade, and which required many unnecessary canvassers, experts and selling agents, and entailed other large and useless expenditures, and that the result of the business methods of the International Harvester Company of New Jersey and of respondent has been to substantially maintain the low level of prices existing at the time of the incorporation of the said International Harvester Company of New Jersey, to the great advantage and profit of the consumer, so that, although the cost of all the materials and labor entering into the manufacture of said agricultural implements, tools and machinery was then and constantly has been increasing, yet such consumer, by the economies produced and the better operation of the facilities for marketing the products, have paid for five years, since the organization of the International Harvester Company of New Jersey, no greater prices for their farm implements, in spite of the increase in the cost of producing and manufacturing the same.

"That the companies whose plants and manufactured products and business were purchased did not, after such purchase, continue to sell in the State of Missouri agricultural implements, tools or machinery as they had previously done, and for that reason the number of competitors was to that extent at that time lessened, but that the market price of said harvesting machines and implements has not been increased for the five years following the incorporation of the International Harvester Company of New Jersey, and that full and free competition in the manufacture, purchase and sale of agricultural implements, tools and machinery in the State of Missouri existed at the time of the incorporation of the Interna-

tional Harvester Company of New Jersey, and has continued since that time, and that there are now in direct competition with respondent in the sale of agricultural implements, tools and machinery in the State of Missouri the following numbers of competitors in the following lines of agricultural implements, tools and machinery, respectively, and that substantially such competition was in existence at the time of the said incorporation of the International Harvester Company of New Jersey."

The answer then sets out a list of the number of respondent's competitors alleged to be doing business in Missouri, and a table showing the per cent of advance in prices of materials used in constructing farm implements, etc., and then alleges that despite the advance shown there has been no corresponding advance in the price of the wares sold by respondent.

The answer then denies that the purpose or effect of organizing the International Harvester Company of New Jersey was the formation of a pool and trust; avers that the purchase of the independent companies was not a pretense, but an actual purchase; that the International Harvester Company of New Jersey sold to respondent in September, 1902, certain property in Missouri in pursuance to an arrangement whereby respondent was to market the New Jersey company's product.

It is admitted that respondent is the sole distributor of the New Jersey company's product in Missouri and that respondent does no manufacturing business, but it is denied that this results from the formation of a pool and trust.

The answer admits the presence of the "exclusive agency clause" in its agency contracts prior to 1906, alleges that a like clause appeared in the agency contracts of the formerly independent companies named and others;

avers that the purpose of the clause was to secure the individual services and attention of agents, and avers that this clause no longer appears in its contracts with agents.

In conclusion, the answer asserts that respondent "has used its rights, franchises and privileges only in the manner and form and under the conditions hereinabove set out," and then prays judgment.

To the answer are attached, as exhibits, copies of respondent's license to do business in Missouri and of its agency contracts for the seasons of 1905 and 1906.

#### WAS A FEDERAL QUESTION NECESSARILY INVOLVED IN THE DECISION OF THE STATE COURT?

Again we call the court's attention to this case which may be found in the 237 Mo. at page 369.

An examination of this case will show that the Supreme Court of Missouri did not consider or decide that a federal question was involved, because no federal question was suggested by the plaintiff in error and necessarily could not be and was not considered.

#### WHEN MUST A FEDERAL QUESTION BE RAISED?

The rule is universal that a federal or constitutional question must be raised at the first opportunity and must be kept alive throughout the trial.

It is also universal that where the petition alleges a violation of a statute that the defendant thereupon, if he wishes to challenge the constitutionality of the statute, must do so by its answer.

The question then is, as the plaintiff in error, the International Harvester Company of America, failed and

neglected to raise a federal question in its answer, whether or not it can now have the same passed upon by this court.

The Supreme Court of Missouri has many times held that a federal or constitutional question must be raised at the very first opportunity.

One of the leading cases in Missouri is that of *Lohmeyer v. Cordage Co.*, 214 Mo., l. c. 688, in which the court said:

"Whatever the use of ambush in war, or games of chance, it does not commend itself to jurisprudence. An appellant may not mask his position in that way and preserve under such cover his constitutional point. Nor would a general reference to the Constitution, State or Federal, do. He must come into the open and put his finger on the specific provision of the Constitution touched by the adverse ruling. [*Excelsior Springs to use v. Ettenson*, 188 Mo. 129, and cases cited; *Davis v. Thompson*, 209 Mo., l. c. 196, et seq.; *Independence to use v. Knoepker*, 206 Mo., l. c. 342, et seq., and cases cited.]

\* \* \* \* \*

"(c) By the 14th ground in the motion for new trial, it was alleged that section 6433, Revised Statutes, 1899, *supra*, was unconstitutional because it was special legislation as denounced in sections 53-4, article 4 of our Constitution; because it deprived defendant of its rights as a citizen of the United States under section 1 of the fourteenth amendment of the Federal Constitution; and because said statute and verdict deprived it of its property without due process

of law guaranteed by said fourteenth amendment.

"If we have jurisdiction, then, it is because a constitutional question was raised and is involved in the 14th clause in the motion. Is there soundness in the point?

"(1) A constitutional question might possibly obtrude itself at the trial regardless of the pleadings through some unanticipated ruling on the introduction of testimony when such question was squarely and with due provision made on objection and exception saved. If raised in that way in an appropriate case, and if the trial court had a chance to correct its error under an appropriate ground in the motion for a new trial, the point would be saved on appeal. So a constitutional question might be preserved on appeal in rare cases by a clause in the motion for a new trial when it did not appear elsewhere in the record. An example of that kind of a case would be where the court had given some instruction directly or by necessary implication for the first time involving the Constitution—for instance, permitting nine jurors out of twelve to render a verdict. [Logan v. Field, 192 Mo., l. c. 66.] In such case, or cases of a kindred nature, the first door open for a constitutional question to enter would be in the motion for a new trial. Appellant could raise it no sooner and nowhere else.

"But it must be taken as a settled law that in so grave a matter as a constitutional question it should be lodged in the case at the earliest

moment that good pleading and orderly procedure will admit under the circumstances of the given case, otherwise it will be waived. [Barber Asphalt Pav. Co. v. Ridge, 169 Mo., l. c. 387, *et seq.*]

"If plaintiff grounds his right of action on a statute which defendant contends is unconstitutional, it should be put in the answer and kept alive. If the defendant grounds an affirmative defense on a statute that plaintiff contends has a like vice, it would seem he should plead its unconstitutionality in the reply, though that has been questioned. (Kirkwood v. Meramec Highlands Co., 160 Mo. 111). If proper to put it in instructions, it should be lodged there and the ruling of the court invoked. Unless one of the other of those courses is pursued, life enough is kept in no such question to give this court jurisdiction on appeal except in one instance, *viz.*: where on the whole case some provision of the Constitution was either directly or by inexorable implication involved in the rendition of the judgment and decided against appellant. The foregoing propositions are within the letter and reasoning of a line of cases. [Woody v. Railroad, 173 Mo., l. c. 550; Hulett v. Railroad, 145 Mo. 35; Shell v. Railroad, 202 Mo., l. c. 344; State *ex rel.* v. Bland, 186 Mo. 691; State *ex rel.* v. Smith, 141 Mo. 1; State *ex rel.* v. Smith, 177 Mo. 69; State *ex rel.* v. Smith, 152 Mo. 444; Suess v. Ins. Co., 193 Mo. l. c. 570; Clark v. Porter, 162 Mo. 516; Ash v. Independence, 169 Mo. 77.]

"The premises considered, we are of opin-

ion that, as appellant neglected to inject its constitutional question in its answer and in its instructions, it neglected its opportunity and should be held to waiver."

Another interesting case in Missouri is that of *Brown v. Railway Company*, 175 Mo., l. c. 189:

"But in order that the case can invoke a constitutional question, the protection of the Constitution must be timely and properly invoked in the trial court, and that protection must have been denied to the party invoking it by that court, and such party must have been the losing party in the trial court, and proper exception saved to the ruling of the trial court. (*Ash v. Independence*, 145 Mo. 120; *Ibid*, 169 Mo. 77; *Parlin & Orendorff Co. v. Hord*, 145 Mo. 117; *Vaughn v. Railroad*, 145 Mo., l. c. 61; *Shewalter v. Railroad*, 152 Mo. 544; *Coleman v. Cole*, 158 Mo., l. c. 258.)

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"Unless the constitutionality of an act under which the proceeding is had is expressly challenged in the trial court, and the challenge overruled by the trial court, and exception saved in that court, and unless the challenging party is the losing party in the lower court, the appeal will lie to the court of appeals and not to this court, and the court of appeals must decide the case without any regard whatever to the constitutional question, for in such a state of the record there is no constitutional question involved in the case. If neither party raises a constitu-



tional question, then the case will be decided by the appellate court that has jurisdiction of the appeal on other grounds, the same as if it had not been possible to raise a constitutional question. In short, a constitutional question must be raised before it can be involved, and if it is not involved, then the decision of the case can decide no such question. In this respect a constitutional question differs from a jurisdictional question that can be raised for the first time in an appellate court. A party can waive a constitutional question by not raising it, for instance, but he cannot waive the jurisdictional question, even expressly.

"In this case no constitutional question was raised in the trial court. In fact, counsel frankly concede that they never knew there was any question about the constitutionality of section 2613, Revised Statutes, 1889, until after the decision of the court of appeals, when they accidentally saw the decision of this court in *Pad-dock v. Railroad*, *supra*. Up to that time counsel believed the section to be constitutional as it was declared in *Perkins v. Railroad*, 103 Mo. 52. Therefore, no protection of the Constitution of the United States against the imposition of an attorney's fee, as authorized by section 2613, *supra*, was invoked in the trial court and, hence, there is no such question involved in this case."

That a constitutional or federal question must be raised at the first opportunity is decided in the case of *Milling Company v. Blake*, 242 Mo. 31:

"It will be noticed that the garnishee planted himself in his answer to the plaintiff's interrogatories squarely behind the provisions of said section 8086, *supra*. To this answer the plaintiff filed its denial, but not a word is said about the constitutionality of the statute relied upon and pleaded by the garnishee. In its denial of the garnishee's answer the constitutionality of the statute relied upon could have been assailed and should have been assailed. These documents constitute the pleadings in a garnishment proceeding. The rule of this court is that so grave a question must be lodged at the first opportunity, or it will be deemed to have been waived. If it can appropriately and naturally be raised in the pleadings, and thereby be a question lodged in the record proper, such is the time and place to raise it. . . . .

Plaintiff filed a written denial of that answer in order to make up the issue. That denial does not challenge the constitutionality of the law. Under such circumstances the challenge for the first time, after judgment, in the motion for new trial comes too late, and such question must be deemed as waived by the plaintiff. This question is therefore eliminated from our consideration. Were this not a case wherein we had jurisdiction for another reason, we would have to certify it to the court of appeals, because the alleged constitutional question was not timely raised. If the question was not sufficiently lodged in the case to give us jurisdiction, it is not sufficiently lodged to call for consideration. With this question out of the

case, we will discuss those remaining, in so far as may be required for a disposition of the cause."

The same rule is announced in the case of *Ross v. Company*, 241 Mo. 299:

"The point was made too late and was waived by the delay in making it. The question is consequently not in the case at all, and can furnish no basis for the retention by this court of jurisdiction. Timely exception not having been saved, this court could not decide the question if jurisdiction were retained. It would be singular if a question which, on the record here, is clearly not presented for decision on appeal, could yet confer jurisdiction.

A constitutional question in order to confer jurisdiction in a given case must not only be raised below, but must be raised at the proper time and kept alive for decision by this court. (*Lohmeyer v. Cordage Co.*, 214 Mo. l. c. 690; *Hartzler v. Railroad*, 218 Mo. l. c. 564, 565; *Brown v. Railroad*, 175 Mo. l. c. 188; *St. Joseph v. Life Ins. Co.*, 183 Mo. l. c. 7; *State v. Earll*, 225 Mo. 537.)"

The rule is again recognized in the case of *Pickel v. Pickel*, 243 Mo. l. c. 666:

"Defendants in their motion for new trial attempt to challenge the constitutionality of that part of section 8295, Revised Statutes, 1909, which authorizes the court to sequester a husband's property and compel him to give security

for the support of his wife and child. This belated effort to nullify said section 8295 must be disregarded for two reasons: (1) It was not called to the attention of the trial court in a timely manner. (*Hartzler v. Railroad*, 218 Mo. 562.) (2) The motion for new trial does not designate the particular clause or provision of the State and Federal Constitutions which render said section 8295, Revised Statutes, 1909, invalid. (*State v. Brockmiller*, 107 Mo. App. 600; *Hulett v. Railroad*, 145 Mo. 35.) Therefore this point is not before us for review."

Also in the case of *Hertzler v. Railway*, 218 Mo. l. c. 564:

"It becomes apparent from an examination made of the record that the constitutional question, in due course of orderly procedure below, could have been put in the case by the answer, or in the instructions, or in other timely ways, so as to save it. The motion for a new trial was not the first door open for the question to enter, and in our later decisions we have ruled that a question of such gravity must be raised as soon as orderly procedure will allow. This, in order that the trial court may be treated fairly and the question get into the case under correct safeguards and earmarked as of substance and not mere color.

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Because the constitutional point was not timely invoked in accordance with the usual course of orderly procedure, we hold this court has no jurisdiction of this appeal."

That the rule is the same in the Supreme Court of the United States is shown in the case of *Astor v. Merritt*, 28 Law Ed. 202; 111 U. S. 401:

"This is a motion to dismiss a writ of error to the Supreme Court of Missouri for want of jurisdiction.

From the beginning it has been held that, to give us jurisdiction in this class of cases, it must appear affirmatively on the face of the record, not only that a federal question was raised and presented to the highest court of the State for decision, but that it was decided, or that its decision was necessary to the judgment or decree rendered in the case. *Murdock v. Memphis*, 20 Wall., 636 (87 U. S., XXII, 444.)

The present record shows that Chouteau and Maffit began this suit against Gibson in the Circuit Court of St. Louis County, Missouri, to obtain a conveyance of certain lands, which they claimed he held in trust for them. Among other defenses, Gibson set up a judgment in his favor in a suit brought by him against Chouteau and Maffit, to recover the possession of the lands, in which, as he alleged, the identical matters presented in this case were directly passed upon and adjudicated between the parties. It is conceded that the State Supreme Court, in deciding the case, sustained this defense and rendered the decree now here for review in favor of Gibson on that ground alone, without considering any of the other questions involved.

Such being the case, it is clear we have no jurisdiction. The legal effect of the judgment set up in bar is a question of general law as to

which the decision of the State court is not reviewable here. The federal questions, if any there were in the case, lay behind this defense and could not be reached until it was out of the way. The question presented by the defense was not whether a federal right had been properly denied by a former judgment, but whether the right had been once judiciously determined so as to become *res judicata* between the parties. Whether an equitable title could be set up in bar of the action at law brought by Gibson, the holder of the legal title, to recover possession, is a question of state law upon which the judgment of the State court is conclusive. The same is true of the question whether the pleadings in the former action were such as to present the equitable defense in proper form for final adjudication. The court below has decided that the pleadings were sufficient; that the equitable defense could be made, and that the judgment in that action in favor of Gibson was, in its legal effect, a judgment that Chouteau and Maffit had no title to the land in controversy. Consequently, that judgment was a bar to this action and precluded the court below as well as this court from reopening the original litigation and considering again the questions that were put at rest between the parties by the decision in their former suit. It is apparent, therefore, that no federal question which there may have been in the case was decided by the State court, and that the decision of such a question was not necessary to the final decree rendered."

This rule is well recognized also in the case of *Powell v. Supervisors*, 37 Law Ed. 433; 150 U. S. 11354:

"As many times reiterated, it is essential to the maintenance of jurisdiction upon the ground of erroneous decision as to the validity of a state statute or a right under the Constitution of the United States, that it should appear from the record that the validity of such statute was drawn in question as repugnant to the Constitution, and that the decision sustained its validity, or that the right was specially set up or claimed and denied. If it appear from the record by clear and necessary intendment that the federal question must have been directly involved so that the State court could not have given judgment without deciding it, that will be sufficient; but resort cannot be had to the expedient of importing into the record the legislation of the State as judicially known to its courts, and holding the validity of such legislation to have been drawn in question, and a decision necessarily rendered thereon, in arriving at conclusions upon the matters actually presented and considered.

A definite issue as to the validity of the statute or the possession of the right must be distinctly deducible from the record before the State court can be held to have disposed of such a federal question by its decision.

The bill of complaint in this case nowhere claimed relief by reason of any right, title, privilege, or immunity under the Constitution of the United States, or because of the violation



by the proceedings in reference to the subscription of any provision of that Constitution, nor did the petition in error to the court of appeals suggest any federal question, but in a supplemental brief, filed in that court, it was urged that by section nine of the charter of the railway company the designated counties were authorized to subscribe "according to the forms prescribed by the Code of Virginia of eighteen hundred and seventy-three;" that these "forms" were set forth in sections 62, 63 and 64 of chapter 61 of that code; and that by subscription thereunder the property owners of the county would be deprived of their property "without due process of law," in violation of the 14th amendment, for want of provision in those sections requiring notice of the election to be given the voters."

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"The 14th amendment was referred to by the court, and, although the conclusion of the opinion that "on all other questions we are of the opinion to affirm the decree appealed from," is broad enough to cover the objection that the statute was in conflict with the Constitution of the United States, we presume that allusion to the subject was thought unnecessary in view of the settled construction of the railroad charter to the contrary of that upon which the supposed conflict depended.

As to that construction, we perceive no reason for declining to accept it in accordance with the general rule applicable to the decisions of the highest court of a state in reference to the laws of the State."

Another interesting case showing that a federal question must be raised at the first opportunity is that of *Sayward v. Denny*, 39 Law Ed. 179; 158 U. S. 941:

"As the validity of no treaty or statute of, or authority exercised under, any state, was drawn in question, it is essential to the maintenance of our jurisdiction that it should appear that some title, right, privilege or immunity under the Constitution or laws of the United States was specially set up or claimed in the State court, and that the decision of the highest court of the State, in which such decision could be had, was against the title, right, privilege or immunity so set up or claimed. And in that regard certain propositions must be regarded as settled: 1. That the certificate of the presiding judge of the State court, as to the existence of grounds upon which our interposition might be successfully invoked, while always regarded with respect, cannot confer jurisdiction upon this court to re-examine the judgment below. *Powell v. Brunswick County Board of Suprs.*, 150 U. S. 433, 439 (38: 1134, 1136), and cases cited. 2. That the title, right, privilege or immunity must be specially set up or claimed at the proper time and in the proper way. *Miller v. Texas*, 153 U. S. 535 (38: 812); *Morrison v. Watson*, 154 U. S. 11, 115 (38: 927, 929), and cases cited. 3. That such claim cannot be recognized as properly made when made for the first time in a petition for rehearing after judgment. *Loeber v. Schroeder*, 149 U. S. 580, 585 (37: 856, 859), and cases cited. 4. That the petition for the writ of error forms no part of the

record upon which action is taken here. *Butler v. Gage*, 138 U. S. 52 (34: 869), and cases cited. 5. Nor do the arguments of counsel, though the opinions of the State courts are now made such by rule. *Gibson v. Chouteau*, 75 U. S. 8 Wall. 314 (19: 317); *Parmalee v. Lawrence*, 78 U. S. 11 Wall. 36 (20-48); *Gross v. United States Mortg. Co.*, 108 U. S. 477, 484 (27: 795, 797); *United States v. Taylor*, 147 U. S. 695, 700 (37: 335, 337). 6. The right on which the party relies must have been called to the attention of the court in some proper way, and the decision of the court must have been against the right claimed. *Hoyt v. Thompson*, 66 U. S. 1 Black. 518 (17: 65); *Maxwell v. Newbold*, 59 U. S. 18 How. 515 (15: 508). 7. Or, at all events, it must appear from the record, by clear and necessary intendment, that the federal question was directly involved so that the State court could not have given judgment without deciding it; that is, a definite issue as to the possession of the right must be distinctly deducible from the record before the State court can be held to have disposed of such federal question by its decision. *Powell v. Brunswick County Board of Suprs.*, 150 U. S. 433, 439 (38: 1134, 1136).

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"The contention is that the result of the rulings and decisions of the trial court in these respects, as affirmed by the Supreme Court, was to hold plaintiff in error conclusively bound by the judgment rendered against Crawford in an

action 'in which he was not a party and of which he had no notice;' and that this was in effect to deprive him of his property without due process of law, or to deny him the equal protection of the laws, and amounted to a decision adverse to the right, privilege or immunity of plaintiff in error under the Constitution of being protected from such deprivation or denial.

"But it nowhere affirmatively appears from the record that such a right was set up or claimed in the trial court when the demurrer to the complaint was overruled, or evidence admitted or excluded, or instructions given or refused, or in the Supreme Court in disposing of the rulings below."

That a federal question must be raised at the first opportunity and comes too late after trial, is decided in the case of *Lone Wolf v. Hitchcock*, 47 Law. Ed. 550; 187 U. S. 299:

"But it is obvious, we think, under the circumstances disclosed in this record, that the protection of the Constitution of the United States could not be successively invoked to annul the judgment here complained of on the theory that such judgment was absolutely void and of no effect under the Constitution of the United States. This results from the consideration that no claim to the protection of the Constitution of United States was set up in any form in the proceedings had in the State court, which resulted in the judgment complained of, and for such reason, if that judgment had been brought to this court for review, it would have been its duty—

having in mind the provisions of Par. 709 of the Revised Statutes [U. S. Comp. Stat. 1901, p. 575] —to affirm the judgment and recognize its binding force, because no federal question was raised. A domestic judgment of a state court, whose validity it would have been the duty of this court to uphold, on direct proceedings to obtain a reversal of such judgment, manifestly should be treated by courts of the United States, so far as relates to federal questions which existed at the time the action was commenced in which the judgment was rendered, as valid between the parties to such judgment. We could not hold to the contrary without saying that a federal defense which could not be availed of unless raised before judgment was yet efficacious, although not raised, to avoid the judgment when rendered. This would necessarily declare a plain contradiction in terms. As the authority conferred by Kansas upon her courts was to set aside *void* judgments, provisions of the Constitution of the United States which would have been available if pleaded or otherwise presented in the state courts as a defense in the proceedings in the original action to defeat the recovery of a valid judgment cannot, when the opportunity has not been availed of and the judgment has become a finality, be resorted to as establishing that in fact the judgment possessed no binding force or efficacy whatever."

## MISSOURI ANTITRUST STATUTES CONSTITUTIONAL.

The Missouri antitrust statutes have been held constitutional by the Supreme Court of the United States, and the very questions now raised by the plaintiff in error, the International Harvester Company of America, were settled long ago by this court in the case of Standard Oil Company of Indiana, Plaintiff in Error, v. State of Missouri, ex information Hadley, 224 U. S. 2704; 56 Law Ed. 760.

**CONCLUSION.**

Defendant in error, the State of Missouri, does not deem it necessary to present other authorities on this point because this rule is so well settled throughout the United States. The International Harvester Company of America could have raised a federal question, if desired, in its answer; and having failed to do so this court will not pass upon such question.

The International Harvester Company of America knew that it was charged with a violation of the antitrust laws of Missouri, and if it wished to challenge the constitutionality of these laws it should have done so in its answer.

Not having done so, the State of Missouri respectfully insists that there is no federal question in this record and that the motion to dismiss the appeal should be sustained.

Respectfully submitted,

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No. 166

FILED

JAN 16 1914

JAMES D. MAHER

CLERK

IN THE  
Supreme Court of the United States

OCTOBER TERM, A. D. 1913.

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INTERNATIONAL HARVESTER COMPANY  
OF AMERICA,

*Plaintiff in Error,*

*vs.*

THE STATE OF MISSOURI, ON THE INFORMATION  
OF ITS ATTORNEY-GENERAL,

*Defendant in Error.*

---

IN ERROR TO THE SUPREME COURT OF THE STATE OF  
MISSOURI.

---

**BRIEF AND ARGUMENT FOR PLAINTIFF IN ERROR IN  
OPPOSITION TO MOTION TO DISMISS OR AFFIRM.**

---

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IN ERROR TO THE SUPREME COURT OF THE STATE OF  
MISSOURI.

**BRIEF AND ARGUMENT FOR PLAINTIFF IN  
ERROR IN OPPOSITION TO MOTION TO DISMISS  
OR AFFIRM.**

---

**Statement.**

This was a proceeding in *quo warranto* brought by the State of Missouri, defendant in error, in its Supreme Court, on November 12, 1907. The information (Tr., 3 to 8) alleged that in 1902 the International Harvester Company of New Jersey was organized for the purpose of effecting a combination between plaintiff in error, a Wisconsin corporation, and certain other companies to restrain competition in the

manufacture and sale of agricultural implements, tools and machinery in Missouri, and that in furtherance thereof, the International Harvester Company of New Jersey has maintained plaintiff in error as its sole selling agent in Missouri. The charges are made in the language of Sections 10,298, 10,299 and 10,301 of the Missouri Rev. Statutes of 1909 (part of the anti-trust statute of Missouri. (Tr., 5.) The prayer of the petition was that the plaintiff in error "be excluded from all corporate rights \* \* \* enjoyed by it under the laws of Missouri, and that its franchise \* \* \* to do business in this State be declared forfeited and that all or such proportion of its property as the court may deem proper be confiscated unto the State, or in lieu thereof a fine be imposed. \* \* \*" (Tr., 7.)

Plaintiff in error answered (Tr., 9-23) averring that it was organized as a Wisconsin corporation in 1881, and was licensed as a foreign corporation in Missouri under a contract dated April 5, 1892, which expressly authorized it "to do business in the State of Missouri for a term ending December 12, 1931 (Tr., 674); that the International Harvester Company was organized under the laws of New Jersey, in 1902, and purchased the properties of several competing harvester companies, including those of plaintiff in error; and that, thereafter, plaintiff in error has been selling in Missouri and elsewhere the products of the New Jersey Company; and the answer denied that plaintiff in error had been a party to any combination, or that in these transactions there was any purpose to restrain or lessen competition, or that trade had been or was being restrained.

The case was referred to a Special Commissioner to take the evidence and report his conclusions. He found

(Tr., 821-883) that the International Harvester Company of New Jersey was a combination of the properties and business of formerly competing harvester companies and that plaintiff in error by being one of such companies and thereafter by selling the New Jersey Company's products in Missouri, had violated the Missouri anti-trust statute. The Commissioner stated that:

"The fact that our statute is specific and under it, not only, combinations to regulate and fix prices or to limit production, but *all combinations made with a view to lessen or which tend to lessen full and free competition are condemned*, make it unnecessary to review the many cases cited in the briefs of counsel construing general terms in the Federal Statutes and those of many of the States, at all times keeping in mind however that not all combinations which tend to or the effect of which is to lessen competition are condemned, but only those combinations which are entered into for that purpose. It is the purpose which vitiates in the eye of our statute." (Tr., 876.)

The plaintiff in error, in excepting to the Commissioner's report (Tr., 889-896) urged that the anti-trust statute of Missouri violated the Fourteenth Amendment to the Federal Constitution in denying to it the equal protection of the laws and in depriving it of property without due process of law:

(1) Because said statute arbitrarily discriminates between persons making or selling products and commodities and persons selling labor and service of all kinds: In that each section of said statute applies only to articles of merchandise and not to labor or services and the like, the prices of which are equally and similarly determined by competition, and may be equally and similarly the subject of combination and conspiracy to the detriment of the public. (Tr., 896.)

(2) Because said statute arbitrarily discriminates

between the *makers and sellers* of products and commodities and the *purchasers* thereof: It prohibits manufacturers and sellers from making contracts or arrangements intended or tending to increase the market price of the articles they make or sell, but does not prohibit purchasers from combining to fix or reduce the market price of the commodities or articles to be purchased by them. (Tr., 896.)

(3) Because said statute, as construed by the Commissioner, unreasonably and arbitrarily interferes with plaintiff in error's right to make proper and reasonable business contracts, and deprives it of property rights in respect thereto. (Tr., 896.)

These exceptions were urged and argued in the Supreme Court of Missouri upon the filing of the Commissioner's report. The State Court overruled them, although neither the opinion nor the decree specifically refers to the exceptions or to the report. But the opinion and the judgment are expressly and solely based upon said anti-trust statute. (237 Mo., 369; 141 S. W., 672; Tr., 900 to 912.)

The judgment ousted the plaintiff in error from the State and fined it \$50,000. (This fine was, on a petition for rehearing, reduced to \$25,000.) That the judgment rests solely upon the anti-trust statute of Missouri, is emphasized by the decree itself, which finds the plaintiff in error guilty of a "violation of Section 10,301 of Chapter 98 of the Revised Statutes of Missouri for the year 1909," by entering "into an arrangement \* \* \* made with a view to *lessen competition*" in reapers, binders, mowers and other farm implements. (Tr., 898.)

In the assignments of error in the application for the writ of error, the plaintiff again urged that the Missouri anti-trust statute, and each section thereof—including Section 10,301 which was specifically mentioned in the de-



eree—was unconstitutional as violating the Fourteenth Amendment both in the denial of the equal protection of the laws, and in the taking of property without due process. (Tr., 932-5.)

This writ of error, with an order of supersedeas, was allowed on December 6, 1911, by the Chief Justice of the Supreme Court of Missouri, a bond was duly given, and a transcript of the record filed with the clerk of this court.

The pending motion to dismiss or affirm depends upon the determination of the existence of (a) a Federal question, (b) duly raised and preserved, (c) which was necessarily involved in the decision of the State Court. The foregoing statement shows that all of these elements are here present, and it only remains to suggest the substantial character of the Federal questions involved.

#### **ERRORS RELIED ON.**

(1) The Missouri anti-trust statute is unconstitutional as violative of Section 1 of the Fourteenth Amendment to the Constitution of the United States, because, while prohibiting the vendors of commodities from combining to increase prices, it does not prohibit the vendors of labor and service from combining to increase prices, or to lessen competition in the sale of such labor or service. (Tr., 933.)

(2) Said statute is unconstitutional because, while prohibiting contracts, agreements and combinations between vendors to lessen competition or increase prices, it does not prohibit contracts, agreements and combinations between purchasers of commodities to limit or lessen competition in the purchase thereof, or to reduce the

prices thereof to the injury of the public and of the producers thereof. (Tr., 934.)

(3) Said statute, as construed herein by the Supreme Court of Missouri and enforced by its judgment, violates said Fourteenth Amendment, in that it unreasonably and arbitrarily limits the right to contract and exceeds the bounds of the police power of the State in that said statute, as construed and applied, condemns a combination under one ownership of formerly competing properties and businesses where no injury to the public was intended or has resulted, but, as found by the Supreme Court of Missouri, had resulted in benefits to the public.

## BRIEF OF THE ARGUMENT.

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### I.

**A Federal question was raised and was decided by the State Supreme Court adversely to plaintiff in error.**

Both the opinion and the decree are expressly founded solely upon the anti-trust statute of Missouri, and upon the extreme letter of that statute, which condemns every contract which "tends to lessen free competition." (Tr., 898.)

The Supreme Court rested its decree specifically on Section 10,301, Revised Statutes of 1909, and upon Sec. 8966, Revised Statutes of 1899. (Tr., 898.)

Section 10,301 reads as follows:

"Sec. 10,301. *Combination to increase prices, declared conspiracy.*—All arrangements, contracts, agreements, combinations or understandings made, or entered into between any two or more persons, designed or made with a view to lessen, or which tend to lessen, lawful trade, or full and free competition in the importation, transportation, manufacture or sale in this state of any product, commodity or article, or thing bought and sold, of any class or kind whatsoever, including the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, and all arrangements, contracts, agreements, combinations or understandings made or entered into between any two or more persons which are designed or made with a view to increase, or which tend to increase the market price of any product, commodity, or article or thing, of any class or kind whatsoever bought and sold, including the price or premium to be paid for insuring property against loss

or damage by fire, lightning or storm, are hereby declared to be against public policy, unlawful and void; and any person or persons creating, entering into, becoming a member of or participating in such arrangements, contracts, agreements, combinations or understandings shall be deemed and adjudged guilty of a conspiracy in restraint of trade, and punished as provided for in this article. (Laws 1907, p. 377.)"

Sec. 8966, Revised Statutes of 1899, which section had been repealed in 1907 (Session Laws 1907, p. 377) prior to the beginning of this suit, reads as follows:

"Sec. 8966. *Certain agreements declared unlawful.* That from and after the passage of this article, all arrangements, contracts, agreements or combinations between persons or corporations, or between persons or any association of persons and corporations, designed or made with a view to lessen, or which tend to lessen full and free competition in the importation, manufacture or sale of any article, product or commodity in this state, and all arrangements, combinations, contracts, or agreements, whereby, or under the terms of which, it is proposed, stipulated, provided, agreed or understood that any person, association of persons or corporations doing business in this state, shall deal in, sell or offer for sale in this state, any particular or specified article, product or commodity, and shall not during the continuance or existence of any such arrangement, combination, contract or agreement, deal in, sell or offer for sale in this state, any competing article, product or commodity, are hereby declared to be against public policy, unlawful and void; and any person, association of persons or corporation becoming a party to any such arrangement, contract, agreement or combination, shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to the penalties provided for in this article." (Laws 1897, p. 208.)

Sec. 10304, R. S. 1909, providing the penalty, is as follows:

"*Offending corporations to forfeit charter and*

*property.*—Any corporation created or organized by or under the laws of this state which shall violate any of the provisions of this article, may, upon proper proof being made thereof in any court of competent jurisdiction in this state, be declared by the court to have forfeited its corporate rights and franchises, and the same may by the court be declared forfeited, void and of noneffect, and shall thereupon cease and determine; and such court may, by such judgment and decree, also declare all or any part of the property of such corporation forfeited unto the state, or in lieu of the forfeiture of its corporate rights and franchises, or in lieu of the forfeiture of all or any part of the property of such corporation, assess against it a fine; and any corporation created or organized by or under the laws of any other state or country which shall violate any of the provisions of this article shall, upon proper proof being made thereof in any court of competent jurisdiction in this state, be declared by the court to have forfeited its right and privilege thereafter to do any business in this state, and the same shall by the court be declared forfeited, void and of noneffect, and shall thereupon cease and determine; and such court may, by judgment and decree, also declare all or any part of the property in this state of such corporation forfeited unto the state, or in lieu of the forfeiture of its right and privilege to do business in this state, or in lieu of the forfeiture of all or any part of the property of such corporation, assess against it a fine; and in all proceedings for the violation of any of the provisions of this article against any corporation created or organized under the laws of this or any other state or country, proof of the acts of any person who has been acting as the agent of such corporation in transacting its business in this state in the name, behalf or interest of such corporation shall be received as *prima facie* proof of the acts of the corporation itself; and it shall be the duty of the clerk of the court in which any judgment of forfeiture shall be rendered, as herein provided for, to certify

the decree thereof to the secretary of state, and if it be an insurance company, also to the superintendent of the insurance department, who shall take notice and be governed thereby as to the corporate powers and rights of said corporation; and in case any court shall render a decree forfeiting all or any part of the property of any corporation violating the provisions of this article, such court shall also appoint a receiver thereof to dispose of the same in such manner as the court may direct, and the net proceeds arising from the sale thereof, shall be paid into the state treasury, as shall all fines that may be imposed against any person or corporation violating the provisions of this article, be paid into the state treasury. (Laws 1907, p. 377.)"

The judgment of the state court is not sustainable on any other ground than these sections.

The invalidity of this statute, on the ground that it denies the equal protection of the law and due process of law guaranteed by the Fourteenth Amendment, was raised by exceptions to the Commissioner's Report (Tr., 896) by arguments before the Supreme Court, by motion for rehearing in the Supreme Court (Tr., 924, 925), and in the assignments of error in the application for the writ of error. (Tr., 932, 935.) Therefore, this writ of error cannot be dismissed on the ground either that no Federal question was involved or was raised, or that the decision and judgment below are sustainable upon non-federal grounds.

## II.

**The Missouri anti-trust statute is unconstitutional because it does not prohibit combinations between persons or corporations affecting the prices of labor or service.**

The statute is in terms limited to combinations and contracts affecting the importation, transportation, manufacture and sale of commodities and articles bought and sold, and the rates paid for insurance.

Rev. Stat. of Missouri, 1909, Sec. 10301.

It has been adjudged by the Supreme Court of Missouri that the statute does not apply to "persons engaged in labor pursuits."

*State v. Standard Oil Co.*, 218 Mo., 1, 370.

This is an arbitrary discrimination which deprives plaintiff in error of the equal protection of the laws.

*Loewe v. Lawlor*, 208 U. S., 274, 301, 302.

*Hilton v. Ekersley*, 6 El. & Bl., 47, 74, 75.

*U. S. v. Workingmen's Amalgamated Council*, 54 Fed., 994, 996.

*More v. Bennett*, 140 Ill., 69, 77.

*Connolly v. Union Sewer Pipe Co.*, 184 U. S., 540, 556, 560, 563, 564.

*People v. Butler Street Fdy. Co.*, 201 Ill., 236, 257, 258.



## III.

The Missouri anti-trust statute is unconstitutional because, while it prohibits arrangements and combinations designed or tending to lessen competition in the manufacture or sale of commodities, or to increase market prices, it does not prohibit arrangements or combinations between purchasers of commodities, designed or tending to lessen competition or to decrease market prices.

Revised Statutes of Missouri, 1899, Sec. 8,966.

Revised Statutes of Missouri, 1909, Sec. 10,307.

The evils of combination or monopoly in the two relations are strictly similar.

*Chaplin v. Brown*, 83 Ia., 156, 157; 48 N. W., 1074.

## IV.

The Missouri anti-trust statute, as construed and applied by the State Court in its judgment herein, is unconstitutional because it unreasonably and arbitrarily violates and restrains plaintiff in error's right and freedom of contract beyond the police power of the state, thus depriving it of property without due process of law.

Rev. Stat. of Missouri, 1909, Sec. 10, 301.

*Smiley v. Kansas*, 196 U. S., 447, 454.

## ARGUMENT.

---

### I.

**A Federal question was raised, and was decided by the State Supreme Court adversely to plaintiff in error.**

Both the opinion and the decree are founded solely upon the anti-trust statute of Missouri, and upon the extreme letter of that statute, which condemns every contract which "*tends to lessen free competition.*" The invalidity of this statute, on the ground that it denies the equal protection of the law and the due process of law guaranteed by the Fourteenth Amendment, was raised by exceptions to the Commissioner's report (Tr., 896), by arguments before the Supreme Court, by motion for rehearing therein (Tr., 924-5), and in the assignments of error in the application for writ of error. (Tr., 932, 935.)

The judgment of the State Court is expressly based on this Statute and is not sustainable on any other ground.

### II.

**The Missouri anti-trust statute is unconstitutional, because it does not prohibit combinations between persons affecting the prices of labor or service.**

The statute is in terms limited to combinations and contracts affecting the importation, transportation, manufacture and sale of commodities and articles bought and sold, and the rates paid for insurance, and it has been

adjudged that it does not apply to "persons engaged in labor pursuits."

*State v. Standard Oil Co.*, 218 Mo., 1, 349, 370.

The constitutionality of this statute, therefore, is to be considered precisely as though it contained a specific clause which exempted from its operation "persons engaged in labor pursuits." Is such an exemption in an anti-trust statute a denial of the equal protection of the law, within the meaning of the 14th Amendment?

The plain purpose of the Missouri Anti-Trust Statute is to prevent and punish all contracts, arrangements and combinations intended or tending "*to lessen lawful trade, or full and free competition.*" The offense is denominated a "conspiracy in restraint of trade." (Sec. 10, 301, pp. 7-8, *supra*.) Trade obviously embraces the sale and purchase of personal services, of labor and of corporate service. Combinations of laborers (skilled or unskilled) no less than combinations of manufacturers and merchants may restrain trade (*Loewe v. Lawlor*, 208 U. S., 274); and such combinations of laborers were illegal at common law (*More v. Bennett*, 140 Ill., 69, 77), and are equally forbidden by the Federal Anti-Trust Act (*Loewe v. Lawlor*, *supra*).

The exemption in this statute embraces not only persons engaged in manual labor and working for wages, but also all persons engaged in labor pursuits. Under it, not only common day-laborers, but skilled and professional workers—engineers, stationary and civil, laundrymen, plumbers, dentists, barbers, nurses, physicians, surgeons, architects, actors, singers, stenographers, teachers, instructors and professors,—are exempted.

They and all other persons who render services, and who, by combining, may increase the prices received for their services, are made a privileged class. They can, by their agreements, lessen or end competition between them, and thereby raise the prices of services and the cost of living, precisely as can the makers and sellers of commodities.

In the protection which municipal law and our state and federal constitutions afford, there is never any distinction between labor and property. Labor and property, the fruit of labor, and the right to labor—as well as the right to manufacture and to sell—are all and equally *property* under the protection of statutes and constitutions. The question is not whether they are in all respects similar, or whether they belong to the same natural classification of rights or things;—but may combinations between those who possess labor or services, whether skilled or unskilled, tend to enhance the prices of what they have to sell and what the community must needs buy, in precisely the same way and under the same economic laws as the prices of commodities may be enhanced by arrangements and combinations between the makers or sellers of those commodities?

When the Sherman bill was pending in the Senate, an amendment was proposed which excluded from its application all agreements and combinations between laborers, to lessen their hours or increase their wages,—and between farmers and fruit growers,—to enhance the prices of their products. In opposing this amendment, Senator Edmunds thus concisely and successfully stated the fundamental error of such an attempted distinction between owners of commodities and owners of services:

"The fact is that this matter of capital, as it is called, of business and of labor is an equation, and you can not disturb one side of the equation without disturbing the other. If it costs for labor 50 per cent. more to produce a ton of iron, that 50 per cent. more goes into what that iron must sell for, or some part of it. I take it everybody will agree to that. \* \* \* Neither speeches nor laws nor judgments of courts nor anything else can change it, and therefore I say to provide on one side of that equation that there may be combinations, and on the other side that there shall not is contrary to the very inherent principle upon which such business must depend. If we are to have equality, as we ought to have, if the combination on the one side is to be prohibited, the combination on the other side must be prohibited, or there will be certain destruction in the end.

On the one side you say that is a crime, and on the other side you say it is a valuable and proper undertaking. That will not do, Mr. President. You can not get on in that way. It is impossible to separate them; and the principle of it therefore is that if one side, no matter which it is, is authorized to combine, the other side must be authorized to combine, or the thing will break and there will be universal bankruptcy." (Cong. Rec., 1890, Vol. 21, pp. 2727, 2729.)

In *Loewe v. Lawlor*, 208 U. S., 274, 301, 302, this court quoted the following language from the opinion in *United States v. Workingmen's Amalgamated Council*, 54 Fed., 994, 996:

"I think the Congressional debates show that the statute had its origin in the evils of massed capital; but, when the Congress came to formulating the prohibition, which is the yardstick for measuring the complainant's right to the injunction, it expressed it in these words: 'Every contract or combination in the form of trust,' \* \* \* 'is hereby declared to be illegal.' The subject had so broadened in the

minds of the legislators that the source of the evil was not regarded as material, and the evil in its entirety is dealt with. They made the interdiction include combinations of labor, as well as of capital; in fact, all combinations in restraint of commerce, without reference to the character of the persons who entered into them."

In *More v. Bennett*, 140 Ill., 69, 77, an association of court reporters to control the prices its members should charge was held illegal at common law.

Indeed, the earliest case of restraint of trade was a contract affecting services, not commodities. It is thus reported in the Common Pleas of 1415:

"Writ of debt was brought on an obligation of one John Dier, in which the defendant declared upon a certain indenture which he set forth, on condition that if the defendant did not use his art of dyer's craft within the town where the plaintiff, etc., for a certain time, to wit, half a year, the obligation should lose all force, etc., and said that he did not use his art of dyer's craft in the time limited, which he averred and prayed judgment, etc. HULL.—In my opinion you might have demurred upon him, that the obligation is void, for that the obligation is against the common law, and by God, if the plaintiff were here, he should go to prison until he paid a fine to the king." (Year Book, 2 Hen. V., fol. 5, pl. 26.)

The absence of a ground for the attempted distinction becomes immediately apparent if we suppose that the Sherman Law were amended so as expressly to exempt all makers and sellers of commodities. This would leave its prohibitions to apply solely to persons and corporations *furnishing labor or service* and to *purchasers of commodities*. Would a contention that there was such a difference between property and service that combinations affecting the price of the one might be forbidden

while combinations affecting the price of the other might be permitted be tolerated for a moment?

If it would be equal protection of the law to exempt from a statute persons who sell their services, it must be equal protection of the law to exempt persons who buy services, or sell commodities, since both classes of persons can restrain trade in commodities and services respectively.

*Hilton v. Ekersley*, 6 El. & Bl. 47, 74, 75.

*Loewe v. Lawlor*, *supra*.

This brings this statute directly within the *Connolly* case (*Connolly v. Union Sewer Pipe Co.*, 184 U. S., 540). In an action on two notes the anti-trust act of Illinois was pleaded as a defense. The precise question in issue was stated by Mr. Justice HARLAN as follows (p. 556):

"The vital question, however, is whether the statute of Illinois of 1893 is not inconsistent with the Constitution of the United States, by reason of the fact that by the ninth section it declares that 'the provisions of this act shall not apply to agricultural products or live stock while in the hands of producer or raiser.' The Circuit Court held this section to be repugnant to the Fourteenth Amendment of the Constitution of the United States, and to be so connected and interwoven with other sections that its invalidity affected the entire act."

After holding that the mere fact that an anti-trust statute is passed pursuant to the police power of the state, does not free it from the necessity of complying with the equal protection clause of the Federal Constitution, and after citing *Barbier v. Connolly*, 113 U. S., 27, 31; *Fick Wo v. Hopkins*, 118 U. S., 356, 369, and *Hayes v. Missouri*, 120 U. S., 68, 71, the court said (p. 560):

"These principles, applied to the case before us,



condemn the statute of Illinois. We have seen that under that statute *all* except producers of agricultural commodities and raisers of live stock, who combine their capital, skill or acts for any of the purposes named in the act, may be punished as criminals, while agriculturalists and live stock raisers, in respect of their products or live stock in hand, are exempted from the operation of the statute, and may combine and do that which, if done by others, would be a crime against the State. The statute so provides notwithstanding persons engaged in trade or in the sale of merchandise and commodities, within the limits of a State, and agriculturalists and raisers of live stock, are all in the same general class, that is, *they are all alike engaged in domestic trade, which is, of right, open to all*, subject to such regulations, applicable alike to all in like conditions, as the State may legally prescribe.

The difficulty is not met by saying that, generally speaking, the State when enacting laws may, in its discretion, make a classification of persons, firms, corporations and associations, in order to subserve public objects. For this court has held that classification 'must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never be made arbitrarily and without any such basis. \* \* \* But arbitrary selection can never be justified by calling it classification. The equal protection demanded by the Fourteenth Amendment forbids this. \* \* \* No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure that equality of rights which is the foundation of free government. \* \* \* It is apparent that the mere fact of classification is not sufficient to relieve a statute from the reach of the equality clause of the Fourteenth Amendment, and that in all cases it must appear not only that a classification has been made, but also that it is one based upon some reasonable ground—some difference which

bears a just and proper relation to the attempted classification—and is not a mere arbitrary selection.’ *Gulf, Colorado and Santa Fe Railway v. Ellis*, 165 U. S., 150, 155, 159, 160, 165.”

And at pp. 563-4:

“Returning to the particular case before us, and repeating or summarizing some thoughts already expressed, it may be observed that if combinations of capital, skill or acts, in respect of the sale or purchase of goods, merchandise or commodities, whereby such combinations may, for their benefit exclusively, control or establish prices, are hurtful to the public interests and should be suppressed, it is impossible to perceive why like combinations in respect of agricultural products and live stock not also hurtful. Two or more engaged in selling dry goods, or groceries, or meats, or fuel, or clothing, or medicines, are, under the statute, criminals, and subject to a fine, if they combine their capital, skill or acts for the purpose of establishing, controlling, increasing or reducing prices, or of preventing free and unrestrained competition amongst themselves or others in the sale of their goods or merchandise; but their neighbors, who happen to be agriculturalists and live stock raisers, may make combinations of that character in reference to their grain or live stock without incurring the prescribed penalty.”

Applying the reasoning of Mr. Justice HARLAN to this statute: It forbids the makers of horse-shoes to enter into any arrangement intended, or even tending, to increase the price of those articles, but leaves the horse-shoers (the price of whose services is much the larger part of the cost to the farmer), to combine freely to increase the cost of horseshoeing. It makes it criminal for the manufacturers of plumbers’ supplies to make any agreement tending to increase prices, but leaves the plumbers (whose services are usually the larger part of

the cost of plumbing and ninety per cent. of plumbing repairs), free to combine for the express purpose and with the result of increasing the prices of their services. It prohibits druggists from entering any association which tends to lessen competition, but leaves the veterinaries, the physicians and the surgeons free to combine for the purpose of restricting competition or of increasing the prices of their services. And the argument applies with equal force to the tailor, the architect and the purely supervising contractor, as well as to all the other lines of skilled and unskilled labor.

And in the case of the druggist the included and excluded classes are combined. As a druggist selling drugs he may not make any agreement whatever which tends to lessen competition in the sale of drugs, but as a licensed pharmacist, with respect solely to the service of compounding drugs, he is entirely free to agree with other pharmacists upon an exorbitant charge for such service. How could the public, as a whole, be subjected to greater damage and more serious injury than through the unlimited combination, which means a permissible monopoly, with respect to the services of plumber, dentist, nurse, pharmacist, and physician?

In *People v. Butler Street Foundry Co.*, 201 Ill., 236, 257, 258, the Court said:

“The amendment of 1897 to the act of 1891 was in the form of a proviso to section 1 of that act and reads as follows: ‘Provided, however, that in the mining, manufacture or productions of articles of merchandise, the cost of which is mainly made up of wages, it shall not be unlawful for persons, firms or corporations doing business in this State to enter into joint arrangements of any sort, the principal object or effect of which is to maintain or increase wages.’

Under the decision in the *Connolly* case it is clear that this amendment is unconstitutional and void, as being an unlawful discrimination in favor of the persons sought to be exempted by the amendment from the operation of the act of 1891, as amended by the act of 1893."

If a State may lawfully exempt from the operation of its anti-trust law all persons furnishing labor or service to the community, every reason for such exemption applies to the articles and commodities which are essentially or substantially the products of such labor or service. The products of the farm are the wages of farm labor in the ordinary case. If those laborers who are paid by employers may combine to secure a larger wage, and the laborers who are farmers and whose compensation for their labor is measured in the prices of their products may not combine, there is clearly an arbitrary and indefensible discrimination.

There is no sound distinction between contracts fixing the price of services and those fixing the prices of commodities produced by such services. Architects may agree as to their fees for preparing plans; contractors for their services in constructing houses or docks or railroads or canals or public buildings. Yet there may be no agreements among manufacturers or sellers as to the prices of the materials to be used therein.

Therefore, what may seem at first blush like a real distinction—when illustrated by a labor union's efforts to improve working and wage conditions—disappears upon careful analysis. In dealing with restraints of trade, the proper basis of classification is obviously neither in commodities nor services nor in persons, but in *restraints*. A law may not fairly say that one class of persons may restrain trade, or that all classes may restrain it in cer-

tain commodities or in certain services and not in others, or in all services but not in commodities.

The true rule must be that if a contract or arrangement or combination, whether relating to services or commodities, restrains trade, it should be illegal. The object of anti-trust statutes is to keep open the channels of trade; therefore, the proper classification includes all persons and devices which close or obstruct such channels.

The Sundry Civil Appropriation bill, passed by Congress in March, 1913, contained a provision that no part of the \$300,000 appropriated for the enforcement of the federal anti-trust statute should be used to prosecute organizations or persons combining to increase wages, shorten hours, or better the conditions of labor, or producers of farm products and associations of farmers combining to obtain reasonable prices for their products. In his veto message, President Taft said:

“This provision is class legislation of the most vicious sort. If it were enacted as substantive law and not merely as a qualification upon the use of moneys appropriated for the enforcement of the law, no one, I take it, would doubt its unconstitutionality. A similar provision in the laws of the State of Illinois was declared by the Supreme Court to be an invasion of the guaranty of the equal protection of the laws contained in the fourteenth amendment of the Constitution of the United States in the case of *Connolly v. Union Sewer Pipe Co.* (184 U. S., 540), although the only exception in that instance from the illegality of organizations and combinations, etc., declared by that statute, was one which exempted agriculturists and live-stock raisers in respect of their products or live stock in hand from the operation of the law, leaving them free to combine to do that which, if done by others, would be a crime against the state.” (Cong. Rec., 62nd Congress, 3rd Session, p. 4838.)

## III.

The Missouri anti-trust statute is unconstitutional because, while it prohibits arrangements and combinations designed or tending to lessen competition in the manufacture or sale of commodities, or to increase market prices, it does not prohibit arrangements or combinations between purchasers of commodities, designed or tending to lessen competition or to decrease market prices.

The judgment and decree (Tr., 898) finds plaintiff in error guilty

“of a violation of Section 10,301 of Chapter 98 of the Revised Statutes of Missouri for the year 1909 \* \* \* and of a previous statute of this state, Section 8966 of Article I, Chapter 143 of the Revised Statutes of Missouri for the year 1899.”

Section 8966 (Rev. Stat. of 1899) prohibits arrangements and combinations “designed or made with a view to lessen, or which tend to lessen, full and free competition in the importation, *manufacture or sale* of any article, product or commodity.”

Section 10,301 (Rev. Stat. of 1909) prohibits all combinations and understandings “designed or made with a view to lessen, or which tend to lessen, lawful trade or full and free competition in the importation, transportation, *manufacture or sale* in this state of any product, commodity or article, or thing bought and sold \* \* \*.”

Neither of these sections prohibits combinations between *purchasers* of commodities designed or tending to lessen competition or to decrease market prices.

Every argument against the exemption of labor and

service, and every reason given by this Court in the *Connolly* case, are applicable here. A combination of buyers may result in a restraint of trade to the same extent and with the same or greater injury as may be caused by a combination of sellers.

Every interest of the public which supports a prohibition of contracts because of their tendency to lessen competition between sellers, and thereby to raise prices, requires a like prohibition against similar combinations between purchasers which have for their purpose the reduction of prices below the fair market value. The consumers' rights are not superior nor inferior to the producers'. And it is not equal protection of the law which prohibits *sellers* from controlling the effects of competition, but which leaves *buyers* entirely free to do so. The evils of combination or monopoly in the two relations are strictly similar.

In *Chaplin v. Brown*, 48 N. W., 1074, 83 Ia., 156 157, all the storekeepers in a country town agreed that one of them alone should buy butter of the farmers, and he should share his profits with the others. The court said (p. 1075):

"It plainly tends to monopolize the butter trade at Storm Lake, and destroy competition in that business. It is not necessary that the enforcement of the agreement would actually create a monopoly in order to render it invalid, and surely where all the dealers in a commodity in a certain locality agree to quit the business, and the plaintiffs are installed as the only dealers in that line, the tendency is, for a time at least, to destroy competition, and leave the plaintiffs as the only dealers in that species of property in that locality."

The theory of the law is that the price of commodities



shall be fixed neither by a combination of buyers nor by a combination of sellers. Each to an equal degree would interfere with the free play of lawful trade and competition.

#### IV.

The Missouri anti-trust statute, as construed and applied by the judgment herein, is unconstitutional, because it arbitrarily violates and restrains plaintiff in error's right and freedom of contract beyond the police power of the state, and thus deprives it of property without due process of law.

The Statute, Sec. 10,301, prohibits not merely contracts and arrangements which restrain trade, or even those which restrain competition, but those "made with a view to lessen or *which tend to lessen* \* \* \* *full and free competition.*" This embraces within its terms all partnerships formed by competitors, all consolidations of competing companies and all normal business contracts which "tend to lessen \* \* \* full and free competition." And upon these very terms of the statute the Commissioner based his finding against plaintiff in error (Tr., 876) and the Supreme Court its opinion and decree. (Tr., 898.)

Therefore, this statute falls directly within the rule announced in *Smiley v. Kansas*, 196 U. S., 447, 454, *et seq.* The court, by Mr. Justice BREWER, said:

"It is contended that the act of 1897 is in conflict with the Fourteenth Amendment to the Federal Constitution, in that it unduly infringes the freedom of contract; that it is too broad and not sufficiently definite, and that while some things are denounced which may be within the police power of the State, yet its

language reaches to and includes matters clearly beyond the limits of that power. \* \* \*

It may be conceded for the purposes of this case that the language of the first section is broad enough to include acts beyond the police power of the State and the punishment of which would unduly infringe upon the freedom of contract. At any rate we shall not attempt to enter into any consideration of that question. The Supreme Court of the State held that the acts charged and proved against the defendant were clearly within the terms of the statute, as well as within the police power of the State; and that the statute could be sustained as a prohibition of those acts irrespective of the question whether its language was broad enough to include acts and conduct which the legislature could not rightfully restrain. \* \* \*

Undoubtedly there is a certain freedom of contract which cannot be destroyed by legislative enactment. In pursuance of that freedom parties may seek to further their business interests, and it may not be always easy to draw the line between those contracts which are beyond the reach of the police power and those which are subject to prohibition or restraint. But a secret arrangement, by which, under penalties, an apparently existing competition among all the dealers in a community in one of the necessities of life is substantially destroyed, without any merging of interests through partnership or incorporation, is one to which the police power extends. That is as far as we need to go in sustaining the judgment in this case. That is as far as the Supreme Court of the State went. If other transactions are presented, in which there is an absolute freedom of contract beyond the power of the legislature to restrain which come within the letter of any of the clauses of this statute, the courts will undoubtedly exclude them from its operation."

The source and limit of the police power are the needs of the public welfare. Its exercise must have direct relation to such needs. In the pending case, the Missouri

Supreme Court found no unfair practices or wrongful conduct by plaintiff in error, but found affirmatively that

**"The evidence also shows that the price of harvester machines was not materially higher after the New Jersey corporation entered the field than it was before, until 1908, when it was increased eight or ten per cent. whilst in the meantime there had been greater increase in the price of the material and labor used in their construction. The evidence also shows that whilst harvesting machines were the chief products of the companies absorbed by the International Harvester Company, that company has greatly enlarged its business and extended it to many other farm implements and has thus put itself in competition with the many concerns that theretofore were and still are engaged in manufacturing such other farm implements and the farmers generally have profited thereby. The evidence also shows that the machines manufactured by the International company have been greatly improved in quality and the item of repair material has been reduced in price and placed within closer reach of the farmer. On the whole the evidence shows that the International Harvester Company has not used its power to oppress or injure the farmers who are its customers."**  
(Tr., 904-5.)

As one of the Judges of the State Court stated in a separate opinion concurring, except as to the fine:

**"In this case the court is required by the statute to pronounce a judgment of condemnation upon a combination which is proved by the facts as they appear in this record to have been so far beneficial to the community. The record shows the facts to be as indicated in the opinion of the chief justice, namely, that the price of mowers and reapers has not been raised in proportion to the increased cost of materials and labor, and that otherwise incidental benefits have accrued to the consumers, and furthermore, that independent manufacturers have not suf-**

ferred by reason of the combination. \* \* \* The statute, however, is plain in its terms, and indicates very clearly that it was the purpose of the Legislature to forbid a license in this State to any foreign corporation which should prove to be a member of any combination organized to lessen competition, and this without regard to the question whether the consumer would be injuriously affected. Such drastic law was regarded, no doubt, as necessary in order to prevent evils which might flow from a combination intended to prevent competition." (Tr., 922.)

So construed, the Missouri Anti-Trust statute violates section one of the Fourteenth Amendment.

We submit that the federal questions here involved are not frivolous, but worthy of argument and consideration, and that the motion to dismiss or affirm should be denied.

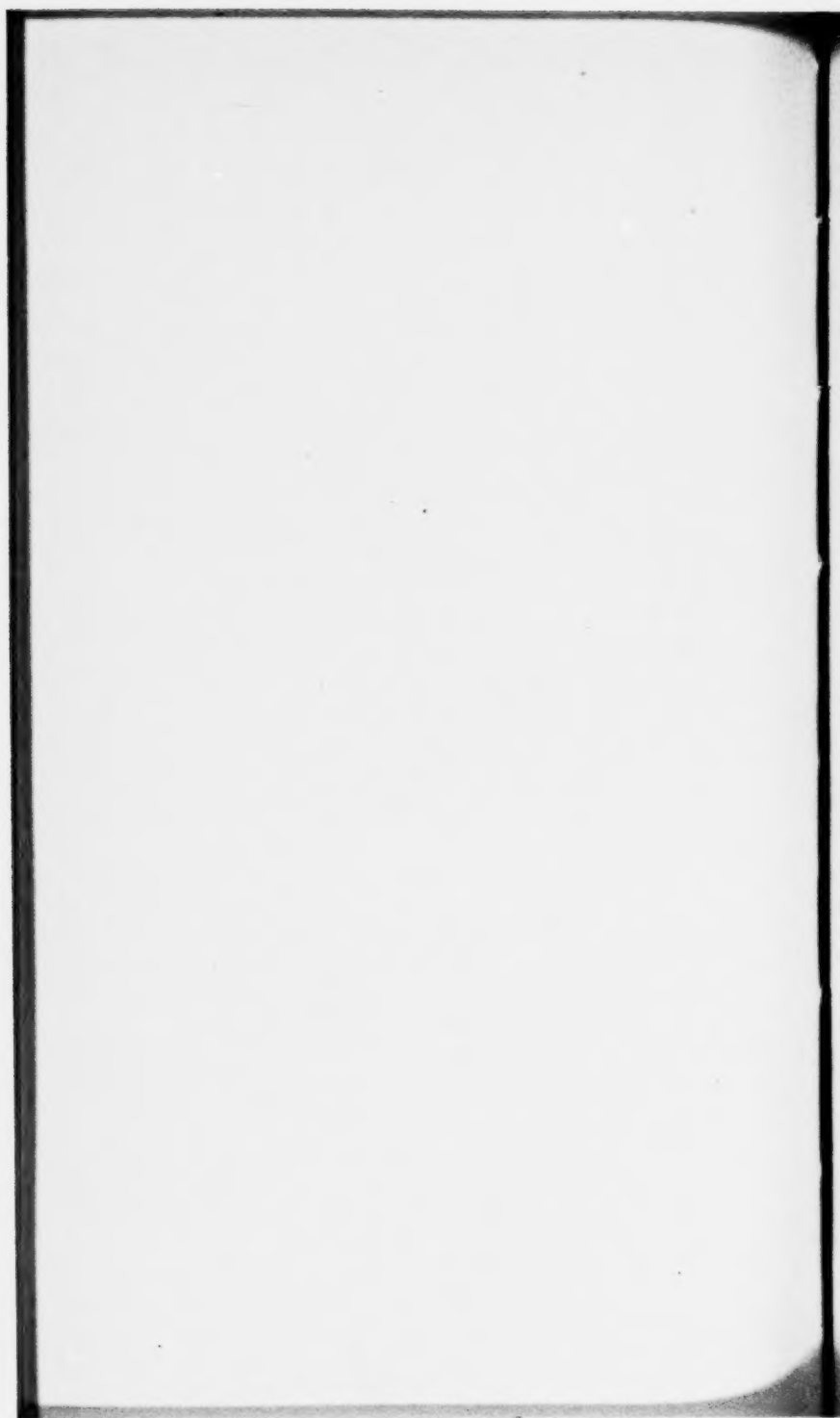
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No. 166

Office Supreme Court, U. S.

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JAMES D. MAHER

CLERK

IN THE  
Supreme Court of the United States

OCTOBER TERM, A. D. 1913.

INTERNATIONAL HARVESTER COMPANY OF  
AMERICA,

*Plaintiff in Error,*

*vs.*

THE STATE OF MISSOURI, ON THE INFORMATION OF ITS  
ATTORNEY-GENERAL,

*Defendant in Error.*

IN ERROR TO THE SUPREME COURT OF MISSOURI.

ON MOTION TO DISMISS OR AFFIRM.

SUGGESTIONS IN ANSWER TO DEFENDANT'S ARGUMENT THAT  
A FEDERAL QUESTION MUST BE RAISED BY ANSWER.

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IN ERROR TO THE SUPREME COURT OF MISSOURI.

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ON MOTION TO DISMISS OR AFFIRM.

---

**SUGGESTIONS IN ANSWER TO DEFENDANT'S ARGUMENT  
THAT THE FEDERAL QUESTIONS WERE NOT SAVED.**

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In the State's argument it is now urged for the first time that a federal question must be raised in the party's pleading. In the motion to dismiss or affirm, no such position is taken. The motion takes the broader ground that no federal question was involved in the pleadings or hearing before the Commissioner or in the Supreme Court. (Motion, paragraphs 2 and 3.) But the entire argument of counsel for the State, however, rests upon the narrow claim that because the federal questions were not raised in the answer to the petition they are not saved. That is not the rule this court has established. The very authorities quoted from at length in defendant in error's brief show this.



FEDERAL QUESTIONS ARE SAVED IF RAISED IN ANY APPROPRIATE  
MANNER BEFORE FINAL JUDGMENT.

The instant case was an original proceeding in the Supreme Court of Missouri. The issues heard by that court were made by plaintiff in error's exceptions to the Commissioner's report. The Supreme Court was the trial court upon such questions.

The petition (Tr., 5-7) did not mention or refer to, either generally or specially, any anti-trust statute of Missouri; but charged, in general terms only, the organization of a pool, trust, combination, agreement and monopoly. The answer denied the allegations of the petition in terms, and, being responsive to the petition of course, did not refer to any Missouri statutes.

The Commissioner, in reporting his conclusions, based his finding against plaintiff in error upon the express language of the Missouri anti-trust statute prohibiting "all combinations made with a view to lessen or which tend to lessen full and free competition." (Tr., 876.)

Thereupon, plaintiff in error filed its exceptions to the Commissioner's findings of law, upon the express ground—items 7th and 10th of exceptions (Tr., 896)—that the Missouri anti-trust law, as construed by the Commissioner, violated the fourteenth amendment of the Federal Constitution. And those federal questions were urged and argued before the Supreme Court of Missouri, and the decision of that court necessarily involved them—as we have before pointed out.

The Missouri statute was attacked as unconstitutional at the very first moment that it was put forward as a basis for this suit. This Court has never held that un-

less the federal question be raised by answer—or by the pleadings—it is not saved.

In *M. K. & T. R. Co. v. Elliott*, 184 U. S., 530, 534,—writ of error to the Kansas City (Mo.), Court of Appeals—this Court stated the true rule thus:

“All that is essential is that the Federal questions must be presented in the state court in such a manner as to bring them to the attention of that tribunal.”

In *Meyer v. Richmond*, 172 U. S., 82, the federal question was first raised by a motion to set aside a judgment entered on defendant's demurrer. This Court sustained its jurisdiction, saying by Mr. Justice McKenna (p. 91):

“The jurisdiction of this court is challenged. The defendants in error claim that ‘the declaration shows no point is therein raised which demanded the consideration by the court of any constitutional question.’ \* \* \* This certainly was not done, and if it was an indispensable condition to the jurisdiction of this court it has none.

But it was done subsequently, as we have stated, and, whatever the ground of the court's ruling on the demurrer and on the first motion to reverse that ruling, the second motion was unequivocally based on the invalidity of the city ordinance because of its asserted conflict with the Fourteenth Amendment of the Constitution of the United States, and the court's ruling necessarily responded to and opposed the grounds of the motion—necessarily denied the right specially set up by him under the Constitution.”

In reviewing certain decisions the court further said (p. 93):

“In *Chicago, Burlington &c. Railroad v. Chicago*, 166 U. S., 226, the right under the Constitution of the United States was claimed by plaintiff in error

after verdict and in a motion to set aside the verdict and to grant a new trial. It is true that in that case, being a proceeding to condemn land under the eminent domain act of the State of Illinois, no provision was made for an answer, but this accounts for some but not all of the language of the decision. Mr. Justice HARLAN, speaking for the court, said: 'It is not, therefore, important that the defendant neither filed or offered to file an answer specially setting up or claiming a right under the Constitution of the United States. It is sufficient if it appears from the record that said right was specially set up or claimed in the state court in such manner as to bring it to the attention of that court.' But he said further: 'But this is not all. In the assignment of errors filed by the defendant in the Supreme Court of Illinois these claims of rights under the Constitution of the United States were distinctly reasserted.'

The similarity of that case to the case at bar is apparent. In both, the constitutional right was claimed in such manner as to bring it to the attention of the lower court, and its decision was necessarily adverse to such right. In both it was reasserted in the assignment of errors to the higher court, and there again in both the effect of the judgment was to declare the right not infringed by the proceedings in the case. This court, therefore, has jurisdiction, and we proceed to the consideration of the merits."

In *Columbia Water Power Co. v. Columbia Street Railway Co.*, 172 U. S., 475, 487, this court, by Mr. Justice BROWN, said:

"To the argument that the Federal right was not 'specially set up and claimed' in the language of Revised Statutes, section 709, it is replied that this is not one of the cases in which it is necessary to do so. Under this section there are three classes of cases in which the final decree of a state court may be re-examined here:

(1) 'Where is drawn in question the validity of a treaty or statute of, or authority exercised under,

the United States, and the decision is against their validity';

(2) 'Where is drawn in question the validity of a statute of, or an authority exercised under, any State on the ground of their being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of their validity;'

But where the validity of a treaty or statute of the United States is raised, and the decision is against it, or the validity of a state statute is drawn in question, and the decision is in favor of its validity, this court has repeatedly held that, if the Federal question appears in the record and was decided, or such decision was necessarily involved in the case, and the case could not have been determined without deciding such question, the fact that it was not specially set up and claimed is not conclusive against a review of such question here."

The present case falls under the second class above enumerated by this Court. In resting this case upon the anti-trust statute, the validity of that statute was necessarily drawn in question, and the decision against plaintiff in error necessarily upheld its constitutionality.

The argument for defendant in error contains two inadvertent errors:

(1) "An examination of this case will show that there was never at any time a federal question in the case." (pp. 3, 14.) It is true the opinion of the Supreme Court does not refer to the federal questions; but they were before the court; they were raised by the exceptions to the Commissioner's report and urged in the brief filed, and were necessarily decided.

(2) That these federal questions were overruled by the *Standard Oil* case, 224 U. S., 270, 288 (Brief, p. 31). The only federal question urged or decided in the *Stand-*

*ard Oil* case was that there was a denial of due process, and equal protection, in that the decree embraced both ouster and a fine. This Court held that no such question was involved, because the decree of the lower court could be sustained upon the common law, without reference to the Missouri anti-trust statute.

Here the decree is based specifically and solely upon such statute, and can not be sustained if the statute is unconstitutional.

Respectfully submitted,

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No. 166

Office Supreme Court, U. S.

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JAMES D. MAHER

CLERK

IN THE

# Supreme Court of the United States

OCTOBER TERM, A. D. 1913.

INTERNATIONAL HARVESTER COMPANY  
OF AMERICA,

*Plaintiff in Error,*

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THE STATE OF MISSOURI, ON THE INFORMATION  
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*Defendant in Error.*

IN ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.

## BRIEF AND ARGUMENT FOR PLAINTIFF IN ERROR.

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VICTOR A. REMY,  
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IN ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.

---

**BRIEF AND ARGUMENT FOR PLAINTIFF IN  
ERROR.**

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**Statement.\***

This was a proceeding in *quo warranto* brought by the State of Missouri, defendant in error, in its Supreme Court, on November 12, 1907. The information (Tr., 3 to 7) alleged that in 1902 the International Harvester Company of New Jersey was organized for the purpose of effecting a combination between plaintiff in error, a

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\*In this brief and argument we have again used the pertinent materials in the brief heretofore filed upon the motion to dismiss this writ of error.

Wisconsin corporation, and certain other companies to restrain competition in the manufacture and sale of agricultural implements, tools and machinery in Missouri, and that in furtherance thereof, the International Harvester Company of New Jersey has maintained plaintiff in error as its sole selling agent in Missouri. The charges are made in the language of Sections 10,298, 10,299 and 10,301 of the Missouri Rev. Statutes of 1909 (part of the anti-trust statutes) but the information contains no reference to those statutes. (Tr., 5.) The prayer of the petition was that the plaintiff in error "be excluded from all corporate rights \* \* \* enjoyed by it under the laws of Missouri, and that its franchise \* \* \* to do business in this State be declared forfeited and that all or such portion of its property as the court may deem proper be confiscated unto the State, or in lieu thereof a fine be imposed. \* \* \*" (Tr., 7.)

Plaintiff in error answered (Tr., 9-23) averring that it was organized as a Wisconsin corporation in 1881, and was licensed as a foreign corporation in Missouri under a contract dated April 5, 1892, which expressly authorized it "to do business in the State of Missouri for a term ending December 12, 1931" (Tr., 674); that the International Harvester Company was organized under the laws of New Jersey in 1902, and purchased the properties of several competing harvester companies, including those of plaintiff in error; and that, thereafter, plaintiff in error has been selling in Missouri and elsewhere the products of the New Jersey Company; and the answer denied that plaintiff in error had been a party to any combination, or that in these transactions there was any purpose to restrain or lessen competition, or that trade had been or was being restrained.

### THE COMMISSIONER'S FINDINGS.

The case was referred to a Special Commissioner to take the evidence and report his conclusions. A large number of witnesses from all parts of Missouri testified as to the business methods of plaintiff in error, its fair treatment of competitors and retail implement dealers, the reasonableness of its prices, the improvement in the quality of its machines and in the service afforded to the consumer. The Commissioner's report said (Tr., 868):

"None of the machines and agricultural implements manufactured by the International Harvester Company and sold by the respondent are manufactured in Missouri. The basic patents on the several harvesting machines manufactured and sold by them had all expired prior to the year 1903. But minor improvements are continually being made and the machines today are better, more simple and durable than they ever were. The facilities for obtaining repairs have also been improved and the insurance on the goods in the hands of the local dealer formerly borne by them, is now carried by the respondent." (Tr., 868.)

The information charged that the following specific acts were done in furtherance of the alleged combination:

(1) That plaintiff in error used exclusive agency contracts by which retail dealers were precluded from handling competitive goods, and competition in agricultural implements was restrained and lessened;

(2) That plaintiff in error had limited the quantity of implements made and sold in Missouri; and

(3) Had fixed, maintained and increased prices.

All these charges were conclusively disproved by the testimony. The Commissioner did not find that the plaintiff in error had been guilty of any wrongful or oppressive practices, but found that it had become a

member of a combination in violation of the anti-trust laws of Missouri, and his report concludes as follows:

"I fail to find in the evidence any other substantial ground upon which respondent's license, right and privilege to do business in this State should be forfeited."

The Commissioner based his finding of an unlawful combination specifically upon the broad language of the Missouri Anti-Trust Statute, and said:

"Under the provisions of this statute any corporation organized under the laws of another State licensed by, and doing business in this State who creates, enters into, becomes a member of, or a party to any pool, trust, agreement, combination, confederation or understanding, *to lessen, or which tends to lessen full and free competition*, to regulate, control or fix the price, or to limit the output, or to place the management or control of such combination in the hands of trustees with intent to fix the price, or limit the output of any article, product or commodity of manufacture, mechanism, merchandise, or commerce is guilty of a violation of its provisions, and such a corporation is also guilty of a violation of its provisions if it enters into any contract, agreement or understanding with any other corporation or person to deal in, sell or offer for sale in this State any such article, product or commodity, and not during the continuance thereof to deal in, sell or offer for sale in this State any competing article, product, or commodity. (Tr., 873.) \* \* \*

The fact that our statute is specific and under it, not only, combinations to regulate and fix prices or to limit production, but *all combinations made with a view to lessen or which tend to lessen full and free competition are condemned*, make it unnecessary to review the many cases cited in the briefs of counsel construing general terms in the Federal Statutes and those of many of the States, at all times keeping in mind however that not all combinations which tend to or the effect of which is to lessen competition are condemned, but only those combinations

which are entered into for that purpose. It is the purpose which vitiates in the eye of our statute." (Tr., 876.)

In the Supreme Court plaintiff in error challenged the correctness of the Commissioner's finding of fact as to its being a member of a combination under the Missouri statute, and specifically urged that that statute violated the Fourteenth Amendment to the Constitution of the United States in denying to plaintiff in error the equal protection of the laws and depriving it of property without due process of law:

(1) Because said statute arbitrarily discriminates between persons making or selling products and commodities and persons selling labor and service of all kinds: In that each section of said statute applies only to articles of merchandise and not to labor or services and the like, the prices of which are equally and similarly determined by competition, and may be equally and similarly the subject of combination and conspiracy to the detriment of the public. (Tr., 896.)

(2) Because said statute arbitrarily discriminates between the *makers and sellers* of products and commodities and the *purchasers* thereof: It prohibits manufacturers and sellers from making contracts or arrangements intended or tending to increase the market price of the articles they make or sell, but does not prohibit purchasers from combining to fix or reduce the market price of the commodities or articles to be purchased by them. (Tr., 896.)

(3) Because said statute, as construed by the Commissioner, unreasonably and arbitrarily interferes with plaintiff in error's right to make proper and reasonable business contracts, and deprives it of property rights in respect thereto." (Tr., 896.)

#### THE STATE COURT'S OPINION.

These exceptions were urged and argued in the Supreme Court of Missouri upon the filing of the Commis-



sioner's report. The State Court overruled them, although neither the opinion nor the decree specifically refers to the exceptions or to the report. But the opinion and the judgment are expressly and solely based upon said anti-trust statute. (237 Mo., 369; 141 S. W., 672; Tr., 900 to 912.) In the petition for the writ of error these Federal questions were again urged. (Tr., 932-5.)

In its opinion, the Missouri Supreme Court found no unfair practices or wrongful conduct by plaintiff in error, but said:

**"The evidence also shows that the price of harvester machines was not materially higher after the New Jersey corporation entered the field than it was before, until 1908, when it was increased eight or ten per cent. whilst in the meantime there had been greater increase in the price of the material and labor used in their construction. The evidence also shows that whilst harvesting machines were the chief products of the companies absorbed by the International Harvester Company, that company has greatly enlarged its business and extended it to many other farm implements and has thus put itself in competition with the many concerns that theretofore were and still are engaged in manufacturing such other farm implements and the farmers generally have profited thereby. The evidence also shows that the machines manufactured by the International company have been greatly improved in quality and the item of repair material has been reduced in price and placed within closer reach of the farmer. On the whole the evidence shows that the International Harvester Company has not used its power to oppress or injure the farmers who are its customers."**  
(Tr., 904-5.)

The judgment ousted the plaintiff in error from the State and fined it \$50,000. (This fine was, on a petition for rehearing, reduced to \$25,000.) That the judgment rests solely upon the anti-trust statute of Missouri, is emphasized by the decree itself, which finds the plaintiff in

error guilty of a "violation of Section 10,301 of Chapter 98 of the Revised Statutes of Missouri for the year 1909," by entering "into an arrangement \* \* \* made with a view to *lessen competition*" in reapers, binders, mowers and other farm implements. (Tr., 898.)

#### ERRORS RELIED ON.

(1) The Missouri anti-trust statute is unconstitutional as violative of Section 1 of the Fourteenth Amendment to the Constitution of the United States, because, while prohibiting the vendors of commodities from combining to increase prices, it does not prohibit the vendors of labor and service from combining to increase prices, or to lessen competition in the sale of such labor or service. (Tr., 933.)

(2) Said statute is unconstitutional because, while prohibiting contracts, agreements and combinations between vendors to lessen competition or increase prices, it does not prohibit contracts, agreements and combinations between purchasers of commodities to limit or lessen competition in the purchase thereof, or to reduce the prices thereof to the injury of the public and of the producers thereof. (Tr., 934.)

(3) Said statute, as construed herein by the Supreme Court of Missouri and enforced by its judgment, violates said Fourteenth Amendment, in that it unreasonably and arbitrarily limits the right to contract and exceeds the bounds of the police power of the State in that said statute, as construed and applied, condemns a combination under one ownership of formerly competing properties and businesses where no injury to the public was intended or has resulted, but, as found by the Supreme Court of Missouri, benefits to the public had resulted.

## BRIEF OF THE ARGUMENT.

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### I.

**A Federal question was raised and was decided by the Missouri Supreme Court adversely to plaintiff in error.**

Both the opinion and the decree are expressly founded solely upon the anti-trust statute of Missouri, and upon the extreme letter of that statute, which condemns every contract which "tends to lessen free competition." (Tr., 898.)

The Supreme Court rested its decree specifically on Section 10,301, Revised Statutes of 1909, and upon Sec. 8966, Revised Statutes of 1899. (Tr., 898.)

Section 10,301 reads as follows:

"Sec. 10,301. *Combination to increase prices, declared conspiracy.*—All arrangements, contracts, agreements, combinations or understandings made, or entered into between any two or more persons, designed or made with a view to lessen, or which tend to lessen, lawful trade, or full and free competition in the importation, transportation, manufacture or sale in this state of any product, commodity or article, or thing bought and sold, of any class or kind whatsoever, including the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, and all arrangements, contracts, agreements, combinations or understandings made or entered into between any two or more persons which are designed or made with a view to increase, or which tend to increase the market price of any product, commodity, or article or thing, of any class or kind whatsoever bought and sold, including the price or premium to be paid for insuring property against loss or damage by fire, lightning or storm, are hereby declared to be against public policy, unlawful and void; and any person or persons creating, entering

into, becoming a member of or participating in such arrangements, contracts, agreements, combinations or understandings shall be deemed and adjudged guilty of a conspiracy in restraint of trade, and punished as provided for in this article. (Laws 1907, p. 377.)”

Sec. 8966, Revised Statutes of 1899, which section had been repealed in 1907 (Session Laws 1907, p. 377) prior to the beginning of this suit, reads as follows:

“Sec. 8966. *Certain agreements declared unlawful.* That from and after the passage of this article, all arrangements, contracts, agreements or combinations between persons or corporations, or between persons or any association of persons and corporations, designed or made with a view to lessen, or which tend to lessen full and free competition in the importation, manufacture or sale of any article, product or commodity in this state, and all arrangements, combinations, contracts, or agreements, whereby, or under the terms of which, it is proposed, stipulated, provided, agreed or understood that any person, association of persons or corporations doing business in this state, shall deal in, sell or offer for sale in this state, any particular or specified article, product or commodity, and shall not during the continuance or existence of any such arrangement, combination, contract or agreement, deal in, sell or offer for sale in this state, any competing article, product or commodity, are hereby declared to be against public policy, unlawful and void; and any person, association of persons or corporation becoming a party to any such arrangement, contract, agreement or combination, shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to the penalties provided for in this article.” (Laws 1897, p. 208.)

The judgment of the state court is not sustainable on any other ground than these sections.

The Federal questions were properly raised and presented.

*M. K. & T. R. Co. v. Elliott*, 184 U. S., 530, 534.

*Meyer v. Richmond*, 172 U. S., 82, 91, 93.

*Columbia Water Power Co. v. Columbia Street Ry. Co.*, 172 U. S., 475, 487.

*St. L., I. M. & S. Ry. Co. v. McWhirter*, 229 U. S., 265, 276.

## II.

The Missouri Anti-Trust Statute is unconstitutional because it exempts from its operation and penalties all "combinations of persons engaged in labor pursuits" and is limited "to persons and corporations dealing in commodities."

The Missouri statute, in terms, embraces only combinations, contracts and arrangements affecting the importation, transportation, manufacture and sale of commodities, and the rates paid for insurance; and does not embrace combinations and contracts made with a view to lessen, or which tend to lessen, competition in the furnishing of labor or service.

Rev. Stat. of Missouri, 1909, Sec. 10,301.

It has been adjudged by the Supreme Court of Missouri that the statute does not apply to "persons engaged in labor pursuits."

*State v. Standard Oil Co.*, 218 Mo., 1, 370.

or to "a business of mere personal service."

*State v. Associated Press*, 159 Mo., 410, 456; 60 N. W., 91, 104.

Such combinations may restrain trade and were illegal at common law.

*Dier's case* (Year Book, 2 Hen. V., fol. 5, pl. 26).

*Ipswich Tailors' case* (11 Coke's Rep., 53a).

*More v. Bennett*, 140 Ill., 69, 77.

*Bailey v. Association of Master Plumbers*, 103 Tenn., 99; 52 S. W., 853.

There is no ground for the attempted distinction between owners of commodities and owners of services. Both may restrain trade. Anti-Trust laws—aiming to protect the freedom of trade and resting on the police power—must include all persons who are capable of restraining trade. Such laws must be coextensive with the evils to be prevented and remedied, and should be enacted, as well as construed, according to the rule of reason.

SWAYNE, J., in *Slaughter House Cases*, 16 Wall., 127.

Senator Edmunds, Cong. Rec. 1890, XXI, pp. 2727, 2729.

*Loewe v. Lawlor*, 208 U. S., 274, 301, 302.

*Connolly v. Union Sewer Pipe Co.*, 184 U. S., 540, 556, 560, 563.

*People v. Butler Street Foundry Co.*, 201 Ill., 236, 257, 258.

Eddy on Combinations, Sec. 910, 912, pp. 1021, 1022.

President Taft's Veto Message, Cong. Rec., 62nd Congress, 3rd Session, p. 4838.

*Adams v. Brennan*, 177 Ill., 194.

The following state court decisions support the exemption of labor and services, but on different, inconsistent and fallacious grounds.

*State v. Duluth Board of Trade*, 107 Minn., 506, 546; 121 N. W., 395, 411.

*Rohlf v. Kasemeier*, 140 Iowa, 182, 190; 118 N. W., 276, 278.

*Cleland v. Anderson*, 66 Neb., 252, 260; 92 N. W., 306. (Contrary holding. *Niagara Fire Ins. Co. v. Cornell*, 110 Fed., 816, 825.)

*State v. Coyle*, 7 Okla. Cr., 50; 122 Pac., 243, 255.

*Cote v. Murphy*, 159 Pa. St., 420; 28 At., 190.

*Hunt v. Riverside Cooperative Club*, 140 Mich., 538; 104 N. W., 40, 44.

*Owen County Burley Tobacco Society v. Commonwealth*, 128 Ky., 137; 107 S. W., 710.

*Commonwealth v. I. H. Co. of A.*, 131 Ky., 551; 115 S. W., 703.

### III.

The Missouri anti-trust statute is unconstitutional because, while it prohibits arrangements and combinations designed or tending to lessen competition in the manufacture or sale of commodities, or to increase market prices, it does not prohibit arrangements or combinations between purchasers of commodities, designed or tending to lessen competition or to decrease market prices.

Revised Statutes of Missouri, 1899, Sec. 8,966.

Revised Statutes of Missouri, 1909, Sec. 10,301.

The evils of combination or monopoly in the two relations are strictly similar.

*Swift & Co. v. U. S.*, 196 U. S., 375, 395, 400.

*Chaplin v. Brown*, 83 Ia., 156, 157; 48 N. W., 1074, 1075.



## I V.

The Missouri anti-trust statute, as construed and applied by the State Court in its judgment herein, is unconstitutional because it unreasonably and arbitrarily violates and restrains plaintiff in error's right and freedom of contract beyond the police power of the state, thus depriving it of property without due process of law.

Rev. Stat. of Missouri, 1909, Sec. 10,301.

*Smiley v. Kansas*, 196 U. S., 447, 454.

## ARGUMENT.

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### I.

**A Federal question was raised, and was decided by the Missouri Supreme Court adversely to plaintiff in error.**

Both the opinion and the decree are founded solely upon the anti-trust statute of Missouri, and upon the extreme letter of that statute, which condemns every contract which "*tends to lessen free competition.*" (Sec. 10,301 R. S. 1909, printed *supra*.)

The invalidity of this statute, on the ground that it denies the equal protection of the law and the due process of law guaranteed by the Fourteenth Amendment, was raised by exceptions to the Commissioner's report (Tr., 896), by arguments before the Supreme Court (which was the trial court), by motion for rehearing therein (Tr., 924-5), and in the assignments of error in the application for writ of error. (Tr., 932, 935.)

Therefore, under the authorities, the questions here argued were properly raised and presented.

*M. K. & T. R. Co. v. Elliott*, 184 U. S., 530, 534.

*Meyer v. Richmond*, 172 U. S., 82, 91, 93.

*Columbia Water Power Co. v. Columbia St. Ry. Co.*, 172 U. S., 475, 487.

The judgment is based entirely and expressly upon the anti-trust statute of Missouri, and is not sustainable on any other ground. Even if it could be sustained upon another theory, that would not remove the Federal question. In *St. Louis, I. M. & S. R. Co. v. McWhirter*, 229 U. S., 265, 276, Mr. Chief Justice WHITE said:

"Mere conjecture may not be indulged in for the purpose of concluding that because there was a potentiality of considering the case from a non-Federal point of view, therefore it was considered and decided in that aspect. But it was long since pointed out in *Neilson v. Lagow*, 12 How., 98, 13 L. Ed., 909, the court speaking through Mr. Justice CURTIS, that to admit that the authority to review the action of a state court where it has decided a Federal question can be rendered unavailing by a suggestion 'that the court below may have rested its judgment' on a non-Federal ground, would simply amount to depriving this court of all power to review Federal questions if only a party chose to make such a suggestion."

## II.

**The Missouri Anti-Trust Statute is unconstitutional because it exempts from its operation and penalties all "combinations of persons engaged in labor pursuits" and is limited "to persons and corporations dealing in commodities."**

The Missouri statute, in terms, embraces only combinations, contracts and arrangements affecting the importation, transportation, manufacture and sale of commodities, and the rates paid for insurance; and does not embrace combinations and contracts made with a view to lessen, or which tend to lessen, competition in the furnishing of labor or service.

In *State v. Standard Oil Co.*, 218 Mo., 1, 370-372, the court said:

"Nor do we agree with respondents in their contention that those statutes are violative of that constitutional provision, in that they unjustly discriminate against property by embracing commodities only and not including labor, which, it is contended, may also become the subject of a pool or combination.

While it is true those statutes are limited in their scope and operation to persons and corporations dealing in commodities, and do not include combinations of persons engaged in labor pursuits, yet it must be borne in mind that the differentiation between labor and property is so great that they do not belong to the same general or natural classification of rights, or things, and have never been so recognized by the common law, or by legislative enactments. They stand upon entirely different footings, and the laws pertaining to the one are entirely different from those pertaining to the other.

Labor has always been considered in the nature of an attribute to man, and partakes more or less of his individuality, and personal liberty, and is inseparable from his person. Labor and labor organizations are controlled and protected by laws enacted to operate largely upon the individuals personally, and not so much as upon the products of their labor, called commodities; while, upon the other hand, commodities are nothing but property, and have no personal connection with the owner whatever.

Legislation affecting property and property rights will in no manner interfere with the personnel of the owner. But that is not true of laws regarding labor, for the reason that the moment you enact laws affecting labor, that moment and by that law you affect the personnel of the laborer. I am not speaking of those laws which are enacted to secure the wages due for labor, but I am referring to the laws that are applicable to labor itself; such as those guaranteeing to the person the right to labor, the right to contract to labor, and the right to agree upon prices to be paid therefor, as well as those which prevent involuntary servitude, etc.

This classification of the laws regarding labor and property has always been recognized, by all nations, in all ages; and those laws which apply to the one have never been considered or looked upon as being special and class legislation, because they do not embrace both. \* \* \*

While the Legislature might have included labor combinations, yet it did not do so, and the reason, above stated, alone was a sufficient justification for

the omission to include labor combinations in the act; to say nothing regarding the general and natural classification of persons and things, which has always been recognized by the law-making powers."

In *State v. Associated Press*, 159 Mo., 410, 456; 60 S. W., 91, 104, it appeared that the Associated Press was engaged in rendering the services of gathering and disseminating news. The court said (p. 456):

"Conceding respondent's business to be in truth a monopoly would furnish an all-sufficient reason and answer for denying the relief relator asks; because the addition of one more monopolist to a monopolistic organization would not lessen its monopolistic features, or abate its vicious tendencies. But there is nothing here on which a monopoly can attach. The business is one of mere personal service; an occupation. Unless there is 'property' to be 'affected with a public interest,' there is no basis laid for the fact or the charge of a monopoly."

The constitutionality of this statute, therefore, is to be determined as though it contained a specific clause excepting from its operation "combinations of persons engaged in labor pursuits." Such exception makes a distinction between the individuals, corporations and agencies that may, by combination, restrain trade. It puts in one class, and under the ban of the law, all persons and corporations engaged in the importation, transportation, manufacture or sale of any product or commodity, or any article of merchandise; and it puts in another class,—outside the operation of this "drastic law"—all "combinations of persons engaged in labor pursuits," though such combinations may lessen competition or restrain lawful trade.

The basis and object of all anti-trust legislation is to protect the freedom of trade; to prevent and punish combinations and contracts which restrict or destroy that

freedom. The expressed purpose of the Missouri anti-trust statute is to prohibit

"all arrangements, contracts, agreements, combinations or understandings made \* \* \* with a view to lessen, or which tend to lessen, lawful trade or full and free competition in the importance, transportation, manufacture or sale \* \* \* of any product, commodity, or article or thing bought and sold of any class or kind whatsoever."

The offense is denominated by this statute a "conspiracy in restraint of trade." (Sec. 10, 301, pp. 8-9, *supra*.) Obviously, labor and services, whether skilled or unskilled, of the hand or the brain, or of both combined, are bought and sold. Trade originally embraced only labor and barter as distinguished from military service. To-day, by familiar definition, it embraces the personal services and labor employed in the so-called "trades," as well as the sale and purchase of corporate service and of commodities.

Combinations of laborers (skilled or unskilled), no less than combinations of manufacturers and merchants, may restrain trade.

Indeed, the earliest case of restraint of trade was a contract affecting services, not commodities. It is thus reported in the Common Pleas of 1415:

"Writ of debt was brought on an obligation of one John Dier, in which the defendant declared upon a certain indenture which he set forth, on condition that if the defendant did not use his art of dyer's craft within the town where the plaintiff, etc., for a certain time, to wit, half a year, the obligation should lose all force, etc., and said that he did not use his art of dyer's craft in the time limited, which he averred and prayed judgment, etc. HULL.—In my opinion you might have demurred upon him, that the obligation is void, for that the obligation is against the common law, and by God, if the plaintiff were

here, he should go to prison until he paid a fine to the king." (Year Book, 2 Hen. V., fol. 5, pl. 26.)

A good example of a combination with reference to services at common law is the *Ipswich Tailors'* case (11 Coke's Rep., 53a). There certain workmen bound themselves not to work at a trade but the court held the bond void, and said:

"No man could be prohibited from working in any lawful trade, for the law abhors idleness, the mother of all evil, and especially in young men, who ought in their youth (which is the seed time) to have lawful sciences and trade, which are profitable to the Commonwealth, and whereof they might reap the fruit in their old age, for idle in youth, poor in age; and therefore the common law abhors all monopolies which prohibit any from working in any lawful trade."

In *More v. Bennett*, 140 Ill., 69, 77, an association of court reporters to control the prices its members should charge was held illegal at common law. The court said:

"The rule of public policy here involved is closely analogous to that which declares illegal and void contracts in general restraint of trade, if it is not indeed a subordinate application of the same rule. As said by Mr. Tiedeman: 'Following the reason of the rule which prohibits contracts in restraint of trade, we find that it is made to prohibit all contracts which in any way restrain the freedom of trade or diminish competition, or regulate the prices of commodities or services. All combinations of capitalists or of workmen for the purpose of influencing trade in their especial favor, by raising or reducing prices, are so far illegal, that agreements to combine can not be enforced by the courts.' Tiedeman on Commercial Paper, sec. 190."

In *Bailey v. Association of Master Plumbers*, 103 Tenn., 99; 52 S. W., 853, a majority of the master plumbers of Memphis formed a corporation and adopted by-laws which required the members to report each week the



work they had done, and provided that if it developed that this work was done in competition with any other member, the members who had done the work were to pay into the treasury a fixed sum, according to an agreed schedule. The defendants were members of the association who refused to pay these sums. In holding that no action lay on this by-law, the court said (pp. 853, 854):

“That requirement, however phrased, tends unmistakably and inevitably to one or both of two unlawful results: (1) The destruction of free and natural competition among members; (2) the arbitrary and unreasonable increase of prices to customers. The tax or tariff so imposed by the association is in the nature of a penalty visited upon members who shall successfully bid against other members on work appertaining to the plumbing business; and, in the nature of things, the member, who is always conscious of the fact that he must bear that burden and pay that tribute if he gets the job, may be expected to refrain from bidding altogether, or to indemnify himself by adding a corresponding sum to the price he would otherwise charge the customer for the same work. Though the by-law does not in terms require the member doing competitive work to increase the price he would otherwise exact of the customer, such increase is its natural tendency and effect, as would readily be supposed from its scope, and as is conclusively demonstrated by this record.”

The court further stated (p. 854):

“The provision is obviously an unreasonable restraint upon trade, and, being so, it is contrary to public policy and void under the common law. It injuriously affects matters of prime importance and legal necessity to the community at large, by the impairment of competition on the one hand, and the enhancement of prices on the other hand, and consequently no supposed obligation resting upon it is capable of enforcement in a court of justice.

The courts are practically unanimous in holding that contracts, agreements, arrangements, or com-

binations, in whatever form or name, are contrary to public policy and void when they tend to impair competition in trade and to enhance prices, to the injury of the public."

In *Adams v. Brennan*, 177 Ill., 194, the Board of Education of Chicago inserted, in a contract with a contractor who was doing work for it, a provision that none but union labor should be employed on the work. In holding the contract void, by reason of this discrimination, the Illinois Supreme Court said (pp. 199, 200):

"If such a restriction were sought to be enforced by any law of the state it would constitute an infringement upon the constitutional rights of citizens, so that the state in its sovereign capacity, through its legislature, could not enact such a provision."

The court further said (pp. 201, 202):

"There is another ground upon which complainant has an undoubted right to maintain the bill, and that is, that the contract tends to create a monopoly and to restrict competition in bidding for work. The Board of Education may stipulate for the quality of material to be furnished and the degree of skill required in workmanship, but a provision that the work shall only be done by certain persons or classes of persons, members of certain societies, necessarily creates a monopoly in their favor. The effect of the provision is to limit competition by preventing contractors from employing any except certain persons and by excluding therefrom all others engaged in the same work, and such a provision is illegal and void."

Labor is property and he who deals in or combines with reference to labor is dealing in or combining with reference to property just as truly as is he who deals in an "article, product or commodity."

"Property is everything which has an exchangeable value, and the right of property includes the power to dispose of it according to the will of the owner. *Labor is property and as such merits pro-*

tection." Dissenting opinion by Mr. Justice SWAYNE in *Slaughter House Cases*, 16 Wallace, 127; 83 U. S., l. c., 127.

The exemption in the Missouri statute embraces not only persons engaged in manual labor and working for wages, but also all persons "engaged in labor pursuits." Under it, not only common day-laborers, but skilled and professional workers are exempted.

Among those classes of persons who, by combination, are able to restrain trade, are the following: wage-earners in factories, shops, mines, quarries, in all transportation service, in agriculture, horticulture, and dairying; teamsters, cab-drivers, dockhands and elevator men; stationary and civil engineers, architects, carpenters, electricians, plumbers, painters, and their assistants; janitors, and all persons engaged in domestic service; teachers, stenographers, physicians, nurses, dentists, barbers, laundrymen, actors, musicians, dyers, tailors, pharmacists, farriers, and persons and corporations gathering or distributing news or furnishing other service.

They and all other persons who render services, and who, by combining, may increase the prices received for their services, are made a privileged class. They can, by their agreements, lessen or end competition between them, and thereby raise the prices of services and the cost of living, precisely as can the makers and sellers of commodities.

In the protection which municipal law and our state and federal constitutions afford, there is never any distinction between labor and property. Labor and property, the fruit of labor, and the right to labor—as well as the right to manufacture and to sell—are all and equally *property* under the protection of statutes and constitu-

tions. The question is not whether they are in all respects similar, or whether they belong to the same natural classification of rights or things;—but may combinations between those who possess labor or services, whether skilled or unskilled, tend to enhance the prices of what they have to sell and what the community must needs buy, in precisely the same way and under the same economic laws as the prices of commodities may be enhanced by arrangements and combinations between the makers or sellers of those commodities?

When the Sherman bill was pending in the Senate, an amendment was proposed which excluded from its application all agreements and combinations between laborers, to lessen their hours or increase their wages,—and between farmers and fruit growers,—to enhance the prices of their products. In opposing this amendment, Senator EDMUNDS thus concisely and successfully stated the fundamental error of such an attempted distinction between owners of commodities and owners of services:

**“The fact is that this matter of capital, as it is called, of business and of labor is an equation, and you can not disturb one side of the equation without disturbing the other. If it costs for labor 50 per cent. more to produce a ton of iron, that 50 per cent. more goes into what that iron must sell for, or some part of it. I take it everybody will agree to that.**

**\* \* \* Neither speeches nor laws nor judgments of courts nor anything else can change it, and therefore I say to provide on one side of that equation that there may be combinations, and on the other side that there shall not is contrary to the very inherent principle upon which such business must depend. If we are to have equality, as we ought to have, if the combination on the one side is to be prohibited, the combination on the other side must be prohibited, or there will be certain destruction in the end.**

On the one side you say that is a crime, and on

the other side you say it is a valuable and proper undertaking. That will not do, Mr. President. You can not get on in that way. It is impossible to separate them; and the principle of it therefore is that if one side, no matter which it is, is authorized to combine, the other side must be authorized to combine, or the thing will break and there will be universal bankruptcy." (Cong. Rec., 1890, Vol. 21, pp 2727, 2729.)

In *Loewe v. Lawlor*, 208 U. S., 274, 301, 302, this court quoted the following language from the opinion in *United States v. Workingmen's Amalgamated Council*, 54 Fed., 994, 996:

"I think the Congressional debates show that the statute had its origin in the evils of massed capital; but, when the Congress came to formulating the prohibition, which is the yardstick for measuring the complainant's right to the injunction, it expressed it in these words: 'Every contract or combination in the form of trust,' \* \* \* 'is hereby declared to be illegal.' The subject had so broadened in the minds of the legislators that the source of the evil was not regarded as material, and the evil in its entirety is dealt with. They made the interdiction include combinations of labor, as well as of capital; in fact, all combinations in restraint of commerce, without reference to the character of the persons who entered into them."

The absence of a ground for the attempted distinction becomes immediately apparent if we suppose that the Sherman Law were amended so as expressly to exempt all makers and sellers of commodities. This would leave its prohibitions to apply solely to persons and corporations *furnishing labor or service* and to *purchasers of commodities*. Would a contention that there was such a difference between property and service that combinations affecting the price of services might be forbidden while combinations affecting the price of commodities might be permitted, be tolerated for a moment?

The classification attempted by the Missouri Supreme Court overlooks the basis and purpose of anti-trust legislation. That purpose requires the protection of the freedom of trade, the prohibition, not of certain classes of restrictions only, or of all restrictions on certain classes or departments of trade, but of all methods and means of undue restraint. This is illustrated by the Sherman Anti-Trust Act, which prohibits, in general terms, the restraint of interstate commerce; and those general terms have been held to embrace—and it cannot be questioned that they do embrace,—combinations of persons engaged in labor pursuits, as well as all other persons who, by combining, effect the forbidden restraint. Therefore, the exemption in the Missouri statute is just as arbitrary and indefensible as though it had exempted from the sellers of commodities those who had produced the commodities by their own labor, or had exempted from commodities the products of the farmer.

This brings this statute directly within the *Connolly* case (*Connolly v. Union Sewer Pipe Co.*, 184 U. S., 540). In an action on two notes the anti-trust act of Illinois was pleaded as a defense. The precise question in issue was stated by Mr. Justice HARLAN as follows (p. 556):

“The vital question, however, is whether the statute of Illinois of 1893 is not inconsistent with the Constitution of the United States, by reason of the fact that by the ninth section it declares that ‘the provisions of this act shall not apply to agricultural products or live stock while in the hands of producer or raiser.’ The Circuit Court held this section to be repugnant to the Fourteenth Amendment of the Constitution of the United States, and to be so connected and interwoven with other sections that its invalidity affected the entire act.”

After holding that the mere fact that an anti-trust statute is passed pursuant to the police power of the state,

does not free it from the necessity of complying with the equal protection clause of the Federal Constitution, and after citing *Barbier v. Connolly*, 113 U. S., 27, 31; *Yick Wo v. Hopkins*, 118 U. S., 356, 369, and *Hayes v. Missouri*, 120 U. S., 68, 71, the court said (p. 560):

"These principles, applied to the case before us, condemn the statute of Illinois. We have seen that under that statute *all* except producers of agricultural commodities and raisers of live stock, who combine their capital, skill or acts for any of the purposes named in the act, may be punished as criminals, while agriculturalists and live stock raisers, in respect of their products or live stock in hand, are exempted from the operation of the statute, and may combine and do that which, if done by others, would be a crime against the State. The statute so provides notwithstanding persons engaged in trade or in the sale of merchandise and commodities, within the limits of a State, and agriculturalists and raisers of live stock, are all in the same general class, that is, *they are all alike engaged in domestic trade, which is, of right, open to all*, subject to such regulations, applicable alike to all in like conditions, as the State may legally prescribe.

The difficulty is not met by saying that, generally speaking, the State when enacting laws may, in its discretion, make a classification of persons, firms, corporations and associations, in order to subserve public objects. For this court has held that classification 'must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never be made arbitrarily and without any such basis. \* \* \* But arbitrary selection can never be justified by calling it classification. The equal protection demanded by the Fourteenth Amendment forbids this. \* \* \* No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure that equality of rights which is the foundation of free government. \* \* \* It is apparent that the mere fact of classification is not sufficient to relieve a statute from the reach of the equality clause of the Fourteenth Amendment, and



that in all cases it must appear not only that a classification has been made, but also that it is one based upon some reasonable ground—some difference which bears a just and proper relation to the attempted classification—and is not a mere arbitrary selection.' *Gulf, Colorado and Santa Fe Railway v. Ellis*, 165 U. S., 150, 155, 159, 160, 165."

And at pp. 563-4:

"Returning to the particular case before us, and repeating or summarizing some thoughts already expressed, it may be observed that if combinations of capital, skill or acts, in respect of the sale or purchase of goods, merchandise or commodities, whereby such combinations may, for their benefit exclusively, control or establish prices, are hurtful to the public interests and should be suppressed, it is impossible to perceive why like combinations in respect of agricultural products and live stock are not also hurtful. Two or more engaged in selling dry goods, or groceries, or meats, or fuel, or clothing, or medicines, are, under the statute, criminals, and subject to a fine, if they combine their capital, skill or acts for the purpose of establishing, controlling, increasing or reducing prices, or of preventing free and unrestrained competition amongst themselves or others in the sale of their goods or merchandise; but their neighbors, who happen to be agriculturalists and live stock raisers, may make combinations of that character in reference to their grain or live stock without incurring the prescribed penalty."

Applying the reasoning of Mr. Justice HARLAN to this statute: It forbids the makers of horse-shoes to enter into any arrangement intended, or even tending, to increase the price of those articles, but leaves the horse-shoers (the price of whose services is much the larger part of the cost to the farmer), to combine freely to increase the cost of horseshoeing. It makes it criminal for the manufacturers of plumbers' supplies to make any agreement tending to increase prices, but leaves the plumbers (whose services are usually the larger part of

the cost of plumbing and ninety per cent. of plumbing repairs), free to combine for the express purpose and with the result of increasing the prices of their services. It prohibits druggists from entering any association which tends to lessen competition, but leaves the veterinaries, the physicians and the surgeons free to combine for the purpose of restricting competition or of increasing the prices of their services. And the argument applies with equal force to the tailor, the architect and the purely supervising contractor, as well as to all the other lines of skilled and unskilled labor.

And in the case of the druggist the included and excluded classes are combined. As a druggist selling drugs he may not make any agreement whatever which tends to lessen competition in the sale of drugs, but as a licensed pharmacist, with respect solely to the service of compounding drugs, he is entirely free to agree with other pharmacists upon an exorbitant charge for such service. How could the public, as a whole, be subjected to greater damage and more serious injury than through the unlimited combination, which means a permissible monopoly, with respect to the services of plumber, dentist, nurse, pharmacist, and physician?

In *People v. Butler Street Foundry Co.*, 201 Ill., 236, 257, 258, the court said:

“The amendment of 1897 to the act of 1891 was in the form of a proviso to section 1 of that act and reads as follows: ‘Provided, however, that in the mining, manufacture or production of articles of merchandise, the cost of which is mainly made up of wages, it shall not be unlawful for persons, firms or corporations doing business in this State to enter into joint arrangements of any sort, the principal object or effect of which is to maintain or increase wages.’ Under the decision in the *Connolly* case it is clear that this amendment is unconstitutional and void, as being an unlawful discrimination in favor of the per-

sons sought to be exempted by the amendment from the operation of the act of 1891, as amended by the act of 1893."

In *EDDY on Combinations*, it is said (Sec. 910 and Sec. 912, pp. 1021, 1023) :

"Sec. 910. (a) Little discussion ought to be required to demonstrate the unconstitutionality of a provision in a law against combinations which excepts employers who combine for the ostensible purpose of maintaining or raising wages, or who happen to be engaged in the production of articles, the chief cost of which is made up of wages. \* \* \* All 'anti-trust' legislation is based upon the police power of the state, and that power can be exercised only for the good of the community. Combinations are not held illegal because they injure those who are connected with them, but because they are supposed to defraud, oppress or injure the community at large. It is difficult to see how a combination is any less injurious to the community because the cost of the product which it controls and which it sells to the community is made up chiefly of wages. A combination of coal companies to control and advance the price of coal is far more apt to affect a community harshly and oppressively than a combination of manufacturers."

"Sec. 912. (c) The conclusions reached in the last paragraph apply with equal force to every law directed against combinations which excepts combinations of labor the object of which is to lessen the hours of labor or increase wages. The vital objection to such legislation is that there is no ground whatsoever for the discrimination. \* \* \* It is needless to say that there is nothing in the occupation of the merchant or the average manufacturer which so distinguishes him from the laborer or the producer of agricultural or horticultural products or the raiser of livestock as to make him a proper subject for police regulation."

If a State may lawfully exempt from the operation of its anti-trust law all persons furnishing labor or service

to the community, every reason for such exemption applies to the articles and commodities which are essentially or substantially the products of such labor or service. The products of the farm are the wages of farm labor in the ordinary case. If those laborers who are paid by employers may combine to secure a larger wage, and the laborers who are farmers and whose compensation for their labor is measured in the prices of their products may not combine, there is clearly an arbitrary and indefensible discrimination.

There is no sound distinction between contracts fixing the prices of services and those fixing the prices of commodities produced by such services. Architects may agree as to their fees for preparing plans; contractors for their services in constructing houses or docks or railroads or canals or public buildings. Yet there may be no agreements among manufacturers or sellers as to the prices of the materials to be used therein.

Therefore, what may seem at first blush like a real distinction—when illustrated by a labor union's efforts to improve working and wage conditions—disappears upon careful analysis. In dealing with restraints of trade, the proper basis of classification is obviously neither in commodities nor services nor in persons, but in *restraints*. A law may not fairly say that one class of persons may restrain trade, or that all classes may restrain it in certain commodities or in certain services and not in others, or in all services but not in commodities.

The true rule must be that if a contract or arrangement or combination, whether relating to services or commodities, unduly restrains trade, it should be illegal. The object of anti-trust statutes is to keep open the channels of trade; therefore, the proper classification includes all

persons and devices which close or obstruct such channels.

The Sundry Civil Appropriation bill, passed by Congress in March, 1913, contained a provision that no part of the \$300,000 appropriated for the enforcement of the federal anti-trust statute should be used to prosecute organizations or persons combining to increase wages, shorten hours, or better the conditions of labor, or producers of farm products and associations of farmers combining to obtain reasonable prices for their product. In his veto message, President TAFT said:

“This provision is class legislation of the most vicious sort. If it were enacted as substantive law and not merely as a qualification upon the use of moneys appropriated for the enforcement of the law, no one, I take it, would doubt its unconstitutionality. A similar provision in the laws of the State of Illinois was declared by the Supreme Court to be an invasion of the guaranty of the equal protection of the laws contained in the fourteenth amendment of the Constitution of the United States in the case of *Connolly v. Union Sewer Pipe Co.* (184 U. S., 540), although the only exception in that instance from the illegality of organizations and combinations, etc., declared by that statute, was one which exempted agriculturists and live stock raisers in respect of their products or live stock in hand from the operation of the law, leaving them free to combine to do that which, if done by others, would be a crime against the state.” (Cong. Rec., 62nd Congress, 3rd Session, p. 4838.)

**CERTAIN STATE DECISIONS SUPPORT THE EXEMPTION OF  
LABOR AND SERVICE, BUT ON INCONSISTENT AND FAL-  
LACIOUS GROUNDS.**

Many courts have held that labor unions, formed for the purpose of increasing the wages or bettering the working conditions of their members, are lawful, or, at least, are not *per se* illegal. There are also decisions of

a few state courts which uphold the exemption from the operation of anti-trust laws of certain classes—or even of all classes,—of persons who render personal service or are engaged in labor pursuits.

*State v. Duluth Board of Trade*, 107 Minn., 506, 546; 121 N. W., 395, 411.

*Rohlf v. Kasemcier*, 140 Iowa, 182, 190; 118 N. W., 276, 278.

*Cleland v. Anderson*, 66 Neb., 252, 260; 92 N. W., 306.

*State v. Coyle*, 7 Okla. Cr., 50, 80; 122 Pac., 243, 255.

These decisions are based upon differing and inconsistent grounds. Thus, in *State v. Coyle*, *supra*, the exemption of

“combinations in restraint of trade which were in furtherance of a trade dispute between employers and employes”

was upheld on the ground that the anti-trust statute applied only to

“employes” who “for their own protection \* \* \* combine to secure shorter hours, higher wages, and more favorable conditions generally than their employers might be willing to concede.”

In *State v. Duluth Board of Trade*, 107 Minn., 506, 546; 121 N. W., 395, 411, the court held that the rules of the board of trade by which “a combination of men engaged in the same business \* \* \* bound themselves by contract \* \* \* to charge uniform rates for personal services,” did not violate the state anti-trust act. The court reached this conclusion as follows: It first held that under a prior decision the state anti-trust act did not apply to a combination of laboring men organized for the purpose of increasing their wages, and then said (p. 546):

“If a combination for the purpose of regulating what one class of men in the community shall receive for their personal services is valid, because not within the scope of the anti-trust statute, it cannot be that any combination for the same purpose is prohibited because of the character or description of the individuals who enter into the combination. The classification must be along the line of purposes, and not persons.”

In *Cleland v. Anderson*, 66 Neb., 252, 260; 92 N. W., 306, an anti-trust act which specifically exempted organizations of laboring men was upheld, although the United States District Court, in *Niagara Fire Ins. Co. v. Cornell*, 110 Fed., 816, 825, had declared the act unconstitutional. In the course of the opinion the state court referred to *Downing v. Lewis*, 56 Neb., 386, 389, and said:

“In that case it was held that a laundry was not within the purview of the statute under consideration. It is pointed out very aptly that the business of a laundry is ‘to make clothes clean, rather than to make clean clothes.’”

This decision makes it a criminal offense for persons making “clean clothes” to do that which is no offense when committed by persons making “clothes clean”!

In *Roldf v. Kasemeier*, 140 Iowa, 182, 190; 118 N. W., 276, 279, the court held that a combination of fourteen physicians, who had agreed to fix fees, was not within the scope of the anti-trust statute. The decision was rested upon the authority of the two Nebraska cases, above cited, and *State v. Associated Press*, 159 Mo., 410; 60 S. W., 91.

Thus these State Court decisions, beginning with the assumed necessary right of employes to combine for protection against their employers, expand the doctrine to include all persons who render services, because there is no legal ground for distinction between persons perform-



ing services as employes and persons performing like services not as employes. Then there was this further necessary inference—that if employes can combine to fix the wages they will demand, then employers may likewise combine to fix the wages that they will pay. As said in Martin on “The Modern Law of Labor Unions” (Sec. 267, p. 342):

“As was shown in a previous chapter the right of workmen to combine for the purpose of maintaining or advancing the rate of wages has been recognized in this country from an early date, and inasmuch as a combination of employes for such purpose is lawful, employers have the correlative right to combine to fix a rate which they are willing to pay. The law is the same for both.”

And it was so held in

*Cote v. Murphy*, 159 Pa. St., 420; 28 At., 190.

*Hunt v. Riverside Co-operative Club*, 140 Mich., 538; 104 N. W., 40, 44.

So, therefore, we have this situation:

- (1) Employes may combine to raise wages.
- (2) Therefore, all persons rendering services may combine—including contractors, laundries, news gatherers, etc.
- (3) Merchants, manufacturers, and farmers, as employers, may combine to reduce wages, but may not form a combination “designed or made with a view to lessen, or which tends to lessen, lawful trade, or full and free competition in the \* \* \* manufacture or sale \* \* \* of any product.”

Under this statute, no matter how injurious the combination of any of the exempted persons may be, it is permitted; no matter how harmless,—or even beneficial, as shown in the instant case,—a combination of those included may be, it is prohibited and punished.

The gravest objection to such an exemption as this is that it permits class interest, and not the general welfare, to fix the scope of legislation, which has no warrant except the protection of the public welfare; and, of course, upon this reason rests the guaranty of the equal protection of the laws.

How insidious and varied are the means employed to evade the purpose and effect of the 14th Amendment is shown in:

*Owen County Burley Tobacco Society v. Brumback*, 128 Ky., 137; 107 S. W., 710.

*Commonwealth v. I. H. Co. of A.*, 131 Ky., 551; 115 S. W., 703.

Every reason which can be advanced to sustain this exemption in the Missouri anti-trust law sustains, with equal force, the exemption of farmers in the Illinois statute condemned by this court in the *Connolly* case. Farming cannot be carried on by the methods of division of labor,—on a large scale and under a single management. The farmer, like the day laborer, has the expenses of small-scale production. He sells what he produces at wholesale, and buys what he uses at retail. But as to laborer and farmer alike, the differences as to anti-combination legislation are not generic, but matters of detail. If the drastic letter of the Missouri statute makes its unreason more apparent if it be strictly applied to those engaged in labor pursuits, in factory or on farm, the true conclusion is, not that those classes should be exempted from laws forbidding restraints of trade, but that such laws should embrace all persons who contribute to, or are capable of, restraining trade: should be co-extensive with the evil to be prevented and remedied. And such legislation should be enacted, as well as construed, according to the rule of reason.

## III.

The Missouri anti-trust statute is unconstitutional because, while it prohibits arrangements and combinations designed or tending to lessen competition in the manufacture or sale of commodities, or to increase market prices, it does not prohibit arrangements or combinations between purchasers of commodities, designed or tending to lessen competition or to decrease market prices.

The judgment and decree (Tr., 898) finds plaintiff in error guilty

“of a violation of Section 10,301 of Chapter 98 of the Revised Statutes of Missouri for the year 1909 \* \* \* and of a previous statute of this state, Section 8966 of Article I, Chapter 143 of the Revised Statutes of Missouri for the year 1899.”

Section 8966 (Rev. Stat. of 1899) prohibits arrangements and combinations “designed or made with a view to lessen, or which tend to lessen, full and free competition in the importation, *manufacture or sale* of any article, product or commodity.”

Section 10,301 (Rev. Stat. of 1909) prohibits all combinations and understandings “designed or made with a view to lessen, or which tend to lessen, lawful trade or full and free competition in the importation, transportation, *manufacture or sale* in this state of any product, commodity or article, or thing bought and sold \* \* \*.”

Neither of these sections prohibits combinations between *purchasers* of commodities designed or tending to lessen competition or to decrease market prices.

Every argument against the exemption of labor and service, and every reason given by this court in the *Connolly* case, are applicable here. A combination of buyers may result in a restraint of trade to the same extent

and with the same or greater injury as may be caused by a combination of sellers.

Every interest of the public which supports a prohibition of contracts because of their tendency to lessen competition between sellers, and thereby to raise prices, requires a like prohibition against similar combinations between purchasers which have for their purpose the reduction of prices below the fair market value. The consumers' rights are not superior nor inferior to the producers'. And it is not equal protection of the law which prohibits *sellers* from controlling the effects of competition, but which leaves *buyers* entirely free to do so. The evils of combination or monopoly in the two relations are strictly similar.

This principle was clearly recognized in *Swift & Company v. United States*, 196 U. S., 375, where a combination of dealers in livestock who agreed not to bid against each other was held to be illegal under the Sherman Act:

"The scheme alleged is so vast that it presents a new problem in pleading. If, as we must assume, the scheme is entertained, it is, of course, contrary to the very words of the statute." (p. 395.)

"The defendants cannot be ordered to compete, but they properly can be forbidden to give directions or to make agreements not to compete." (p. 400.)

In *Chaplin v. Brown*, 83 Ia., 156, 157; 48 N. W., 1074, all the storekeepers in a country town agreed that one of them alone should buy butter of the farmers, and he should share his profits with the others. The court said (p. 1075):

"It plainly tends to monopolize the butter trade at Storm Lake, and destroy competition in that business. It is not necessary that the enforcement of the agreement would actually create a monopoly in order to render it invalid, and surely where all the dealers in a commodity in a certain locality agree to quit the

business, and the plaintiffs are installed as the only dealers in that line, the tendency is, for a time at least, to destroy competition, and leave the plaintiffs as the only dealers in that species of property in that locality."

The theory of the law is that the price of commodities shall be fixed neither by a combination of buyers nor by a combination of sellers. Each to an equal degree would interfere with the free play of lawful trade and competition.

#### IV.

The Missouri anti-trust statute, as construed and applied by the judgment herein, is unconstitutional, because it arbitrarily violates and restrains plaintiff in error's right and freedom of contract beyond the police power of the state, and thus deprives it of property without due process of law.

The Statute, Sec. 10,301, prohibits not merely contracts and arrangements which restrain trade, or even those which restrain competition, but those "made with a view to lessen or *which tend to lessen* \* \* \* *full and free competition.*" This embraces within its terms all partnerships formed by competitors, all consolidations of competing companies and all normal business contracts which "tend to lessen \* \* \* full and free competition." And upon these very terms of the statute the Commissioner based his finding against plaintiff in error (Tr., 876) and the Supreme Court its opinion and decree. (Tr., 898.)

Therefore, this statute falls directly within the rule announced in *Smiley v. Kansas*, 196 U. S., 447, 454 *et seq.* The court, by Mr. Justice BREWER, said:

"It is contended that the act of 1897 is in conflict with the Fourteenth Amendment to the Federal Con-

stitution, in that it unduly infringes the freedom of contract; that it is too broad and not sufficiently definite, and that while some things are denounced which may be within the police power of the state, yet its language reaches to and includes matters clearly beyond the limits of that power. \* \* \*

It may be conceded for the purposes of this case that the language of the first section is broad enough to include acts beyond the police power of the State and the punishment of which would unduly infringe upon the freedom of contract. At any rate we shall not attempt to enter into any consideration of that question. The Supreme Court of the State held that the acts charged and proved against the defendant were clearly within the terms of the statute, as well as within the police power of the State; and that the statute could be sustained as a prohibition of those acts irrespective of the question whether its language was broad enough to include acts and conduct which the legislature could not rightfully restrain. \* \* \*

Undoubtedly there is a certain freedom of contract which cannot be destroyed by legislative enactment. In pursuance of that freedom parties may seek to further their business interests, and it may not be always easy to draw the line between those contracts which are beyond the reach of the police power and those which are subject to prohibition or restraint. But a secret arrangement, by which, under penalties, an apparently existing competition among all the dealers in a community in one of the necessities of life is substantially destroyed, without any merging of interests through partnership or incorporation, is one to which the police power extends. That is as far as we need to go in sustaining the judgment in this case. That is as far as the Supreme Court of the State went. If other transactions are presented, in which there is an absolute freedom of contract beyond the power of the legislature to restrain which come within the letter of any of the clauses of this statute, the courts will undoubtedly exclude them from its operation."

The source and limit of the police power are the needs of the public welfare. Its exercise must have direct rela-

tion to such needs. In the instant case, the Missouri Supreme Court found no unfair practices or wrongful conduct by plaintiff in error, but found affirmatively that

**"The evidence also shows that the price of harvester machines was not materially higher after the New Jersey corporation entered the field than it was before, until 1908, when it was increased eight or ten per cent. whilst in the meantime there had been greater increase in the price of the material and labor used in their construction. The evidence also shows that whilst harvesting machines were the chief products of the companies absorbed by the International Harvester Company, that company has greatly enlarged its business and extended it to many other farm implements and has thus put itself in competition with the many concerns that theretofore were and still are engaged in manufacturing such other farm implements and the farmers generally have profited thereby. The evidence also shows that the machines manufactured by the International company have been greatly improved in quality and the item of repair material has been reduced in price and placed within closer reach of the farmer. On the whole the evidence shows that the International Harvester Company has not used its power to oppress or injure the farmers who are its customers."**  
(Tr., 904-5.)

As one of the Judges of the State Court stated in a separate concurring opinion—except as to the fine:

**"In this case the court is required by the statute to pronounce a judgment of condemnation upon a combination which is proved by the facts as they appear in this record to have been so far beneficial to the community. The record shows the facts to be as indicated in the opinion of the chief justice, namely, that the price of mowers and reapers has not been raised in proportion to the increased cost of materials and labor, and that otherwise incidental benefits have accrued to the consumers, and furthermore, that independent manufacturers have not suffered by reason of the combination. \* \* \* The statute, however, is plain in its terms, and indicates**



very clearly that it was the purpose of the Legislature to forbid a license in this State to any foreign corporation which should prove to be a member of any combination organized to lessen competition, and this without regard to the question whether the consumer would be injuriously affected. Such drastic law was regarded, no doubt, as necessary in order to prevent evils which might flow from a combination intended to prevent competition." (Tr., 922.)

So construed, the Missouri Anti-Trust statute violates section one of the Fourteenth Amendment.

From the foregoing it appears that the anti-trust statute of Missouri, within the scope of its provisions, is drastic far beyond the literal terms of the Sherman law: It prohibits not only restraints of trade, not only restraints of competition, but *every* contract or arrangement "made with a view to *lessen*, or which *tends to lessen* \* \* \* *competition*" in the sale of commodities.

But, while thus drastic as to commodities, it wholly exempts all combinations and arrangements between those engaged in labor pursuits. All lessening of competition between merchants and manufacturers is a crime. The complete destruction of competition between the various persons and organizations engaged in furnishing services is permitted. This is not equal protection of the laws.

The 14th Amendment is a re-guaranty of the "unalienable rights" of life, liberty and property, not only against foreign powers, as in the Declaration of Independence, not only against the National Government, as in the 5th Amendment, but also as against infringement by the States themselves. The Declaration and the Constitution declared and established liberty upon the basis of equality. But the inequality in slavery finally, in 1861, imperiled life and liberty and property. To remove that

inequality and that peril, and to re-establish those fundamental rights, Section 1 of the 14th Amendment provided:

“Nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.”

Whenever a part of the people—even though a majority—make or enforce laws that are partial and unequal, they imperil the liberties of all the people, including their own. They weaken or remove some safeguard of life, liberty and the pursuit of happiness.

When, therefore, under the pressure of local interest, passion, or prejudice, partial and unequal laws are passed or unequally enforced, no duty more important to the welfare of the whole people and the nation or more vital to the preservation of their liberties, falls to this court than to enforce this constitutional guaranty.

For the foregoing reasons, we submit that the anti-trust statute of Missouri is unconstitutional and void, and that the judgment of the Supreme Court of Missouri in the instant case should, therefore, be reversed.

Respectfully submitted,

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7  
**FILED**

**APR 28 1914**

**JAMES D. MAHER**

**CLERK**

**IN THE  
Supreme Court of the United States.**

**OCTOBER TERM, A. D. 1913.**

**No. 166.**

**INTERNATIONAL HARVESTER COMPANY OF  
AMERICA, PLAINTIFF IN ERROR,**

**vs.**

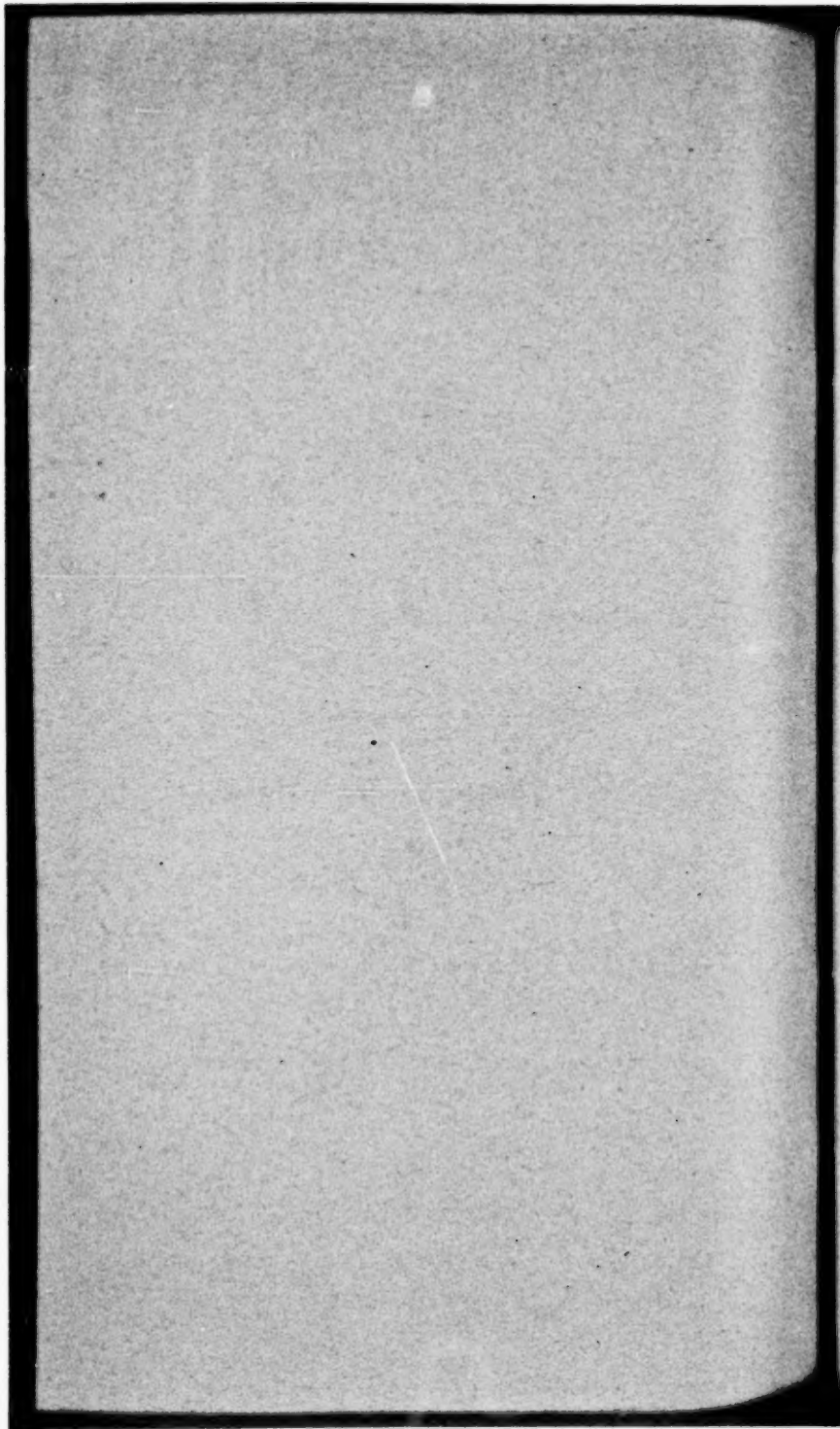
**THE STATE OF MISSOURI, ON THE INFORMA-  
TION OF ITS ATTORNEY-GENERAL, DE-  
FENDANT IN ERROR.**

**IN ERROR TO THE SUPREME COURT OF THE STATE  
OF MISSOURI.**

**Brief and Argument for Defendant in Error.**

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IN THE  
**Supreme Court of the United States.**

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**No. 166.**

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INTERNATIONAL HARVESTER COMPANY OF  
AMERICA, PLAINTIFF IN ERROR,

*vs.*

THE STATE OF MISSOURI, ON THE INFORMA-  
TION OF ITS ATTORNEY-GENERAL, DE-  
FENDANT IN ERROR.

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**IN ERROR TO THE SUPREME COURT OF THE STATE  
OF MISSOURI.**

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**Brief and Argument for Defendant in Error.**

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**Statement.**

This proceeding was instituted in quo warranto by the State of Missouri against the International Harvester Company of America, for a violation of the Missouri Anti-Trust Laws, and the Supreme Court of Missouri found said Harvester Company guilty and assessed a fine of \$25,000 against it and rendered a judgment of ouster. Thereupon said Harvester Company brought the case to this court by writ of error alleging that a federal question was involved.

The State of Missouri thereupon filed its motion supported by a brief and argument to dismiss the writ of error, alleging that said Harvester Company had not raised a federal question in its answer and that the Missouri Supreme Court had not considered and passed upon such federal question. This motion was considered by the court and has been taken with the case.

It is the contention of the State of Missouri that there is really no federal question involved in this case, because said Harvester Company did not first set up such federal or constitutional question in its answer.

The case is here, therefore, as far as the State of Missouri is concerned, with the suggestion that such federal question was not properly raised, and even if properly raised it can not avail the Harvester Company, because the Missouri Anti-Trust Statutes are constitutional and have been so held many times.

### POINTS IN AUTHORITIES.

(1)

**There is no Federal Question in This Case and the Judgment of the Missouri Supreme Court Should Be Affirmed.**

Astor *vs.* Merritt, 111 U. S., 401.  
 Powell *vs.* Supervisor, 150 U. S., 113.  
 Sayward *vs.* Denny, 158 U. S., 941.  
 Lone-Wolf *vs.* Hitchcock, 187 U. S., 299.  
 Lohmeyer *vs.* Company, 214 Mo. 1c, 688.  
 Brown *vs.* Railroad, 175 Mo. 1c, 189.  
 Ross *vs.* Company, 241 Mo., 299.

**The Missouri Anti-Trust Statutes Are Constitutional  
and Have Been Held So Many Times.**

Standard Oil Company *vs.* State of Missouri,  
224 U. S., 270.

State of Missouri *vs.* Standard Oil Co., 218 Mo.  
1c, 368.

State of Missouri *vs.* Tobacco Co., 177 Mo., 37.

State of Missouri *vs.* Ins. Co., 251 Mo., 278.

Railroad *vs.* Mackey, 127 U. S., 209.

Barbier *vs.* Connelly, 113 U. S., 31.

R. R. *vs.* Ellis, 165 U. S., 150.

United States *vs.* Association, 171 U. S., 505.

State of Missouri *vs.* International Harvester Co.,  
237 Mo., 369.

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**ARGUMENT.**

(I)

**There is no Federal Question in This Case and the Judgment of the Missouri Supreme Court Should be Affirmed.**

Defendant in error filed a brief sometime ago in this court in support of its motion to dismiss this writ of error, alleging that the plaintiff in error failed to properly raise a federal question, and we are confident that when the court examines into this question it will find that the plaintiff in error wholly failed to inject a federal question into this record in time.



This suit was instituted by the Attorney-General of Missouri by quo warranto and pleaded the Anti-Trust Statute of Missouri and thereupon the plaintiff in error filed its answer and did not mention the Anti-Trust Statute of Missouri until after the commissioner, appointed by the court, found the plaintiff in error guilty, and then, for the first time, it concluded that the Missouri Anti-Trust Statutes were unconstitutional and attempted, by exceptions to the masters report, to raise a federal question.

This, we contend, can not be done. We will not go further into this question in this brief because the court has our other brief in support of this motion and we herein adopt what we said there, and respectfully insist that under no consideration can this court hold this case as properly before it, and that, therefore, the appeal should be dismissed.

## (II)

### **The Missouri Anti-Trust Statutes Are Constitutional and Have Been Held So Many Times.**

The plaintiff in error alleges that the Missouri Anti-Trust Statutes are unconstitutional on three grounds:

- (1) Because said statutes do not prohibit vendors of labor from combining to increase prices, etc.
- (2) Because said statutes do not make it a violation of law to limit or lessen competitions in the purchase of commodities, etc., but only strikes at the selling thereof.
- (3) Because said statutes are cruel and oppressive in that they provide a penalty for violations, although no actual injury to the public can be discovered.

We do not think that there is any merit in the contention of the plaintiff in error that the Missouri Anti-Trust Statutes are unconstitutional because they do not prohibit labor organizations from combining. We respectfully invite the court to a careful reading of the very learned opinion of the Missouri Supreme Court, written by his Honor, Judge Woodson, in the 218 Mo. at page 368, *State of Missouri vs. Standard Oil Co.*, and there will be found a very elaborate discussion of this very question and the authorities collated and discussed.

It has always been the rule that where a law provides a penalty for all the members of one class, that such act is constitutional, and in this case all corporations are made amenable to the law.

The authorities cited by the plaintiff in error to the effect that labor organizations are excluded, are not in exact harmony with the Missouri Statutes and only recently the Supreme Court of Missouri condemned 186 companies for entering into a conspiracy or agreement to suspend operations in Missouri, and this agreement was held invalid.

*State of Missouri vs. Insurance Company*, 251, 278.

We do not feel as if we can add anything to the well-written opinion of the Missouri Supreme Court in the *Standard Oil* case, in which it completely and for all time to come answered the contention of the plaintiff in error that the Missouri Anti-Trust Statutes are unconstitutional.

The Supreme Court of the United States in a very learned opinion by Mr. Justice Lamar, *Standard Oil Company vs. the State of Missouri*, 224 U. S., 280, affirmed the conviction of the *Standard Oil Company of Missouri*, and the Missouri Anti-Trust Statutes were

necessarily involved, and yet this court upheld the Supreme Court of Missouri in every particular.

In that case the question was raised as to the constitutionality of the Missouri Anti-Trust Statutes and the court unanimously upheld the conviction against the Standard Oil Company, and we are sure that this case along with the other case cited under this point are conclusive on the right of the State of Missouri to maintain this suit.

### Conclusion.

We are not disposed to find fault with the cases cited by plaintiff in error, but we contend that there is nothing in those cases to support the contention of the plaintiff in error that the Missouri Statutes are unconstitutional, but rather do they maintain and establish the constitutionality of the Missouri Anti-Trust Statutes.

There can be no merit in the contention of the plaintiff in error that because the Missouri Anti-Trust Statutes aim only at persons who sell commodities, that thereby they exempt persons who purchase commodities.

After careful reading of all of the authorities cited by the plaintiff in error, we are of the opinion that the Missouri Anti-Trust Statutes were wisely drawn, and that their tendency is to protect and establish the welfare of the people, and from a careful reading of this record it will be found that the plaintiff in error was found guilty of establishing and creating a monopoly, and that it possesses the power, if it desires, to strangle the farming industry of the great State of Missouri.

In this enlightened day and in this charitable age monopoly can not exist, and the Missouri Supreme Court simply followed the authorities for a hundred years and struck this blow at monopoly and inasmuch as the plaintiff in error had a fair and impartial hearing and did not

even see fit to plead the unconstitutionality of the Anti-Trust Statutes of Missouri, coupled with the fact that even if it had pleaded that said statutes were unconstitutional, it would have availed it nothing, and in consideration of the enormity of its offense we can not refrain from saying that the fine was an exceedingly modest one.

We, therefore, respectfully submit that the Missouri Anti-Trust Statutes are constitutional and that the judgment of the Supreme Court of Missouri should be upheld.

JOHN T. BARKER,  
*Attorney-General,*

W. T. RUTHERFORD,  
*Asst. Attorney-General,*

W. M. FITCH,  
*Asst. Attorney-General,*  
*for Defendant in Error.*

PAUL P. PROSSER,  
*Of Counsel.*

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**INTERNATIONAL HARVESTER COMPANY OF  
AMERICA *v.* STATE OF MISSOURI.**

**ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.**

**No. 166. Argued April 29, 1914.—Decided June 8, 1914.**

Although the state appellate court may not have referred to the constitutional questions in its opinion, this court cannot regard such silence as a condemnation of the time at, or manner in which, those questions were raised; and, if the record shows that they were raised in that court, this court has jurisdiction.

The Fourteenth Amendment does not preclude the State from adopting a policy against all combinations of competing corporations and enforcing it even against combinations which have been induced by good intentions and from which benefit and not injury may have resulted.

The power of classification which may be exerted in the legislation of

States has a very broad range; and a classification is not invalid under the equal protection provision of the Fourteenth Amendment because of simple inequality.

A state statute prohibiting combination is not unconstitutional as denying equal protection of the law because it embraces vendors of commodities and not vendors of labor and services. There is a reasonable basis for such a classification; and so *held* as to the Missouri anti-trust Laws of 1899 and 1909.

Questions of policy are for the legislature and not for this court to determine.

As classification must be accommodated to the problems of legislation; it may depend upon degree of evil so long as it is not unreasonable or arbitrary.

237 Missouri, 369, affirmed.

THE facts, which involve the constitutionality of the Missouri Anti-trust Acts of 1899 and 1909, are stated in the opinion.

*Mr. Edgar A. Bancroft* and *Mr. W. M. Williams*, with whom *Mr. Selden P. Spencer* and *Mr. Victor A. Remy* were on the brief, for plaintiff in error:

A Federal question was raised and was decided by the Missouri Supreme Court adversely to plaintiff in error.

The Missouri anti-trust statute is unconstitutional because it exempts from its operation and penalties all "combinations of persons engaged in labor pursuits" and is limited "to persons and corporations dealing in commodities."

Combinations of laborers, skilled or unskilled, no less than combinations of manufacturers and merchants, may restrain trade.

Anti-trust laws aiming to protect the freedom of trade and resting on the police power must include all persons who are capable of restraining trade.

Although certain state decisions support the exemption of labor and services, they are based on inconsistent and fallacious grounds.

Anti-trust laws must be co-extensive with the evils to be prevented and remedied.

The Missouri anti-trust statute is unconstitutional, because, while it prohibits arrangements and combinations designed or tending to lessen competition in the manufacture or sale of commodities, or to increase market prices, it does not prohibit arrangements or combinations between purchasers of commodities designed or tending to lessen competition or to decrease market prices.

A combination of buyers may restrain trade to the same extent and with the same or greater injury as a combination of sellers.

The Missouri anti-trust statute, as construed and applied by the state Supreme Court in its judgment herein, is unconstitutional because it unreasonably and arbitrarily violates and restrains plaintiff in error's right and freedom of contract beyond the police power of the State, thus depriving it of property without due process of law.

In support of these contentions, see *Adams v. Brennan*, 177 Illinois, 194; *Bailey v. Master Plumbers*, 103 Tennessee, 99; *Chaplin v. Brown*, 83 Iowa, 156, 157; *Cleland v. Anderson*, 66 Nebraska, 252, 260; *Columbia Water Power Co. v. Columbia St. Ry. Co.*, 172 U. S. 475, 487; *Commonwealth v. Int. Harvester Co.*, 131 Kentucky, 551; *Connolly v. Union Sewer Pipe Co.*, 184 U. S. 540, 556; *Cole v. Murphy*, 159 Pa. St. 420; *Dier's Case* (Year Book, 2 Hen. V, fol. 5, pl. 26); *Downing v. Lewis*, 56 Nebraska, 386, 389; *Hunt v. Riverside Coöperative Club*, 140 Michigan, 538; *Ipswich Tailors' Case* (11 Coke's Rep. 53a); *Loewe v. Lawlor*, 208 U. S. 274, 301; *Meyer v. Richmond*, 172 U. S. 82, 91; *M., K. & T. R. Co. v. Elliott*, 184 U. S. 530; *More v. Bennett*, 140 Illinois, 69, 77; *Niagara Fire Ins. Co. v. Cornell*, 110 Fed. Rep. 816, 825; *Owen County Society v. Brumback*, 128 Kentucky, 137; *People v. Butler St. Foundry Co.*, 201 Illinois, 236, 257; *Rohlf v. Kasemeier*, 140 Iowa, 182, 190; *Slaughter House Cases*, 16 Wall. 127;



*Smiley v. Kansas*, 196 U. S. 447, 454; *St. L., I. M. & S. Ry. Co. v. McWhirter*, 229 U. S. 265, 276; *State v. Associated Press*, 159 Missouri, 410, 456; *State v. Croyle*, 7 Okla. Cr. 50; *State v. Duluth Board of Trade*, 107 Minnesota, 506, 546; *State v. Int. Harvester Co.*, 237 Missouri, 369; *State v. Standard Oil Co.*, 218 Missouri, 1, 370; *Swift & Co. v. United States*, 196 U. S. 375, 395; *United States v. Workmen's Council*, 54 Fed. Rep. 994.

Mr. John T. Barker, Attorney General of the State of Missouri, with whom Mr. W. T. Rutherford, Mr. W. M. Fitch, Mr. Thomas J. Higgs and Mr. Paul P. Prosser were on the brief, for defendant in error:

There is no Federal question in this case and the judgment of the Missouri Supreme Court should be affirmed. *Astor v. Merritt*, 111 U. S. 401; *Powell v. Supervisor*, 150 U. S. 113; *Sayward v. Denny*, 158 U. S. 941; *Lone Wolf v. Hitchcock*, 187 U. S. 299; *Lohmeyer v. Company*, 214 Missouri, p. 688; *Brown v. Railroad*, 175 Missouri, p. 189; *Ross v. Company*, 241 Missouri, 299.

The Missouri anti-trust statutes are constitutional and have been so held many times. *Standard Oil Co. v. Missouri*, 224 U. S. 270; *Missouri v. Standard Oil Co.*, 218 Missouri, p. 368; *Missouri v. Tobacco Co.*, 177 Missouri, 37; *Missouri v. Insurance Co.*, 251 Missouri, 278; *Railroad v. Mackey*, 127 U. S. 209; *Barbier v. Connelly*, 113 U. S. 31; *Railroad Co. v. Ellis*, 165 U. S. 150; *United States v. Association*, 171 U. S. 505; *Missouri v. Int. Harvester Co.*, 237 Missouri, 369.

MR. JUSTICE MCKENNA delivered the opinion of the court.

Information in the nature of *quo warranto* brought in the Supreme Court of the State to exclude plaintiff in error from the corporate rights, privileges and franchises exer-

cised or enjoyed by it under the laws of the State, that they be forfeited, and all or such portion of its property as the court may deem proper be confiscated or in lieu thereof a fine be imposed upon it in "punishment of the perversion, usurpation, abuse and misuse of franchises."

The ground of the action is the alleged violation of the statutes of the State passed respectively in 1899 and 1909 and entitled "Pools, Trusts and Conspiracies" and "Pools, Trusts and Conspiracies and Discriminations."

The facts alleged in the information are these: Plaintiff in error is a Wisconsin corporation engaged in the manufacture and sale of agricultural implements, binders, mowers, etc., and was licensed on the fifth of April, 1892, to do business in Missouri under the name of the Milwaukee Harvester Company, and on September 18, 1902, became licensed to do and engaged in such business in the State. In that year the International Harvester Company of New Jersey was organized with a capital stock of \$120,000,000 for the purpose of effecting a combination of plaintiff in error and certain other companies to restrain competition in the manufacture and sale of such agricultural implements in Missouri, and the New Jersey company has maintained plaintiff in error as its sole selling agent in Missouri. Before the combination the companies combined were competitors of one another and of other corporations, individuals and partnerships engaged in the same business in the State and that thereby the people of the State, and particularly the retail dealers and farmers of the State, received the benefit of competition in the purchase and sale of farm implements. The combination was designed and made with a view to lessen, and it tended to lessen, free competition in such implements, and thereby the said corporations entered into and became members of a pool, trust, combination and agreement. In furtherance thereof and for the purpose of giving the International Harvester Company of New Jersey a

monopoly of the business of manufacturing and selling agricultural implements in the State, and for the purpose of preventing competition in the sale thereof, plaintiff in error has compelled the retail dealers in each county of the State who desire to handle and sell or act as agent for it to refrain from selling implements manufactured or sold by competing companies or persons. By reason thereof competition in such implements has been restrained, prices controlled, the quantity of such implements has been fixed and limited, and plaintiff in error has been able to secure, and for several years enjoy, from 85% to 90% of the business, all to the great damage and loss of the people of the State, and by reason of its participation in the pool, trust and combination and by reason of the acts and things done by it plaintiff in error has been guilty of an illegal, wilful and malicious perversion and abuse of its franchises, privileges and licenses granted to it by the State.

The answer of plaintiff in error denied that it had become a party to any combination or that in its transactions there was any purpose to restrain or lessen competition, or that trade had been or was restrained.

The case was referred to a special commissioner to take the evidence and report his conclusions. He found, as alleged in the information, that the International Harvester Company of New Jersey was a combination of the properties and businesses of formerly competing harvester companies, and plaintiff in error being one of such companies and, thereafter by selling the New Jersey company's products in Missouri, had violated the Missouri statutes against pools, trusts and conspiracies.

In exceptions to the report of the special commissioner plaintiff in error urged that the statute of Missouri violated the equality clause and due process clause of the Fourteenth Amendment to the Constitution of the United States, "(1) Because said statute arbitrarily discrim-

inates between persons making or selling products and commodities and persons selling labor and service of all kinds: In that each section of said statute applies only to articles of merchandise and not to labor or services and the like, the prices of which are equally and similarly determined by competition, and may be equally and similarly the subject of combination and conspiracy to the detriment of the public. (2) Because said statute arbitrarily discriminates between the *makers and sellers* of products and commodities and the *purchasers* thereof: It prohibits manufacturers and sellers from making contracts or arrangements intended or tending to increase the market price of the articles they make or sell, but does not prohibit purchasers from combining to fix or reduce the market price of the commodities or articles to be purchased by them. (3) Because said statute, as construed by the Commissioner, unreasonably and arbitrarily interferes with plaintiff in error's right to make proper and reasonable business contracts, and deprives it of property rights in respect thereto."

These exceptions were urged and argued in the Supreme Court upon the filing of the commissioner's report. Judgment was entered upon the report, in which it was adjudged that by reason of the violation of the statutes of the State as charged in the information, plaintiff in error had forfeited the license theretofore granted to it to do business in the State, and it was adjudged that the license be forfeited and canceled and the company ousted from its rights and franchises granted by the State to do business in the State, and a fine of \$50,000 was imposed upon it. It was, however, provided that upon payment of the fine on or before the first of January, 1912, and immediately ceasing all connection with the International Harvester Company of New Jersey and the corporations and co-partnerships with which it had combined, and not continuing and maintaining the unlawful agreement and com-

bination with them to lessen and destroy competition in the sale of the enumerated farm implements and giving satisfactory evidence thereof to the court, the judgment of ouster should be suspended. The company was given until March 1, 1912, "to file its proof of willingness" to comply with the judgment. It was also adjudged that upon a subsequent violation of the statute "the suspension of the writ of ouster shall be removed" by the court "and absolute ouster be enforced," and to that end the court retained "its full and complete jurisdiction over the cause." 237 Missouri, 369.

A motion is made to dismiss on the ground that plaintiff in error in its answer simply denied that it had violated the anti-trust laws of the State, and, it is contended, that by not alleging in its answer that those laws violated the Constitution of the United States it waived such defense. It is further contended that because the Federal right was not asserted in the answer the Supreme Court of the State could not have considered and did not consider or decide it. Decisions of the Supreme Court of Missouri are cited to sustain the contentions. The decisions declare the proposition that constitutional questions must be raised at the first opportunity or, as it is expressed in one of the cases (*Brown v. Railway Co.*, 175 Missouri, 185, 188), "the protection of the Constitution must be timely and properly invoked in the trial court."

In *Milling Company v. Blake*, 242 Missouri, 23, 31, it is said: "The rule of this court is that so grave a question [constitutional question] must be lodged at the first opportunity, or it will be deemed to have been waived. If it can be appropriately and naturally raised in the pleadings, and thereby be a question lodged in the record proper, such is the time and place to raise it," and that it is too late to raise the question after judgment in a motion for new trial. In *Hertzler v. Railway Co.*, 218 Missouri, 562, 564, it was held: "The motion for a new trial was not

the first door open for the question to enter, and in our later decisions we have ruled that a question of such gravity must be raised as soon as orderly procedure will allow. This, in order that the trial court may be treated fairly and the question get into the case under correct safeguards and earmarked as of substance and not mere color."

It is manifest, we think, that the court only intended to express the condition of appellate review to be that in the trial court constitutional questions should not be reserved until the case had gone to judgment on other issues, and then used to secure a new trial. The principle of the rulings is satisfied in the case at bar. It is, as we have seen, an original proceeding in the Supreme Court and upon the report of the commissioner which brought the case to the court for decision of the issues and questions involved in it the Federal questions were made "under correct safeguards and earmarked as of substance and not mere color." It is true the court has not referred to them in its opinion, but we cannot regard its silence as a condemnation of the time or manner at or in which they were raised. The motion to dismiss is, therefore, denied.

The assignments of error necessarily involve a consideration of the statutes. The relevant provisions are contained in § 10301 of the Revised Statutes of the State of 1909, and § 8966 of the Revised Statutes of 1899.

Section 10301 provides, "that all arrangements, contracts, agreements, combinations or understandings made, or entered into between any two or more persons, designed or made with a view to lessen, or which tend to lessen, lawful trade, or full and free competition in the importation, transportation, manufacture or sale" in the State "of any product, commodity or article, or thing bought and sold," and all such arrangements, etc., "which are designed or made with a view to increase, or which tend to increase the market price of any product, commodity or article or thing, of any class or kind whatsoever

bought and sold," are declared to be against public policy, unlawful and void, and those offending "shall be deemed and adjudged guilty of a conspiracy in restraint of trade, and punished" as provided.

Section 8966 provides that arrangements, etc., such as described in § 10301, having like purpose, and all such arrangements, etc., "whereby, or under the terms of which, it is proposed, stipulated, provided, agreed or understood that any person, association of persons or corporations doing business in" the State, "shall deal in, sell or offer for sale" in the State "any particular or specified article, product or commodity, and shall not during the continuance or existence of any such arrangement, . . . deal in, sell or offer for sale," in the State, "any competing article, product or commodity," are declared to be against public policy, unlawful and void; and any person offending "shall be deemed and adjudged guilty of a conspiracy to defraud, and be subject to the penalties" provided.

By § 10304 of the Revised Statutes of 1909 it is provided that domestic offending corporations shall forfeit their charters and all or any part of their property as shall be adjudged by a court of competent jurisdiction, or be fined in lieu of the forfeiture of charters or of property.

Foreign offending corporations shall forfeit their right to do business in the State, with forfeiture also of property or, in lieu thereof, the payment of a fine.

In *State v. Standard Oil Co.*, 218 Missouri, 1, 370, 372, the Supreme Court held that the anti-trust statutes of the State "are limited in their scope and operations to persons and corporations dealing in commodities, and do not include combinations of persons engaged in labor pursuits." And, justifying the statutes against a charge of illegal discrimination, the court further said that "it must be borne in mind that the differentiation between labor and property is so great that they do not belong to the same



general classification of rights, or things, and have never been so recognized by the common law, or by legislative enactments."

Accepting the construction put upon the statute, but contesting its legality as thus construed, plaintiff in error makes three contentions, (1) The statutes as so construed unreasonably and arbitrarily limit the right of contract; (2) discriminate between the vendors of commodities and the vendors of labor and services, and (3) between vendors and purchasers of commodities.

(1). The specification under this head is that the Supreme Court found, it is contended, benefit—not injury—to the public had resulted from the alleged combination. Granting that this is not an overstatement of the opinion the answer is immediate. It is too late in the day to assert against statutes which forbid combinations of competing companies that a particular combination was induced by good intentions and has had some good effect. *Armour Packing Co. v. United States*, 209 U. S. 56, 62; *Standard Sanitary Mfg. Co. v. United States*, 226 U. S. 20, 49. The purpose of such statutes is to secure competition and preclude combinations which tend to defeat it. And such is explicitly the purpose and policy of the Missouri statutes; and they have been sustained by the Supreme Court. There is nothing in the Constitution of the United States which precludes a State from adopting and enforcing such policy. To so decide would be stepping backwards. *Carroll v. Greenwich Ins. Co.*, 199 U. S. 401; *Central Lumber Co. v. South Dakota*, 226 U. S. 157.

It is true that the Supreme Court did not find a definite abuse of its powers by plaintiff in error, but it did find that there was an offending against the statute, a union of able competitors and a cessation of their competition, and the court said, p. 395: "Some of the smaller concerns that were competitors in the market have ceased their struggle for existence and retired from the field." This is one

of the results which the statute was intended to prevent, the unequal struggle of individual effort against the power of combination. The preventing of the engrossment of trade is as definitely the object of the law as is price regulation of commodities, its prohibition being against combinations "made with a view to lessen, or which tend to lessen, lawful trade or full and free competition in the importation, transportation, manufacture or sale of any commodity, or article or thing-bought or sold." See *Standard Oil Co. v. United States*, 221 U. S. 1; *United States v. American Tobacco Co.*, Id. 106; *United States v. Patten*, 226 U. S. 525.

(2) and (3). These contentions may be considered together, both involving a charge of discrimination—the one because the law does not embrace vendors of labor, the other because it does not cover purchasers of commodities as well as vendors of them. Both, therefore, invoke a consideration of the power of classification which may be exerted in the legislation of the State. And we shall presently see that power has very broad range. A classification is not invalid because of simple inequality. We said in *Atchison, Topeka & Santa Fe R. R. Co. v. Matthews*, 174 U. S. 96, 106, by Mr. Justice Brewer, "The very idea of classification is that of inequality, so that it goes without saying that the fact of inequality in no manner determines the matter of constitutionality." Therefore, it may be there is restraint of competition in a combination of laborers and in a combination of purchasers, but that does not demonstrate that legislation which does not include either combination is illegal. Whether it would have been better policy to have made such comprehensive classification it is not our province to decide. In other words, whether a combination of wage earners or purchasers of commodities called for repression by law under the conditions in the State was for the legislature of the State to determine.

In *Carroll v. Greenwich Ins. Co.*, *supra*, a statute of Iowa was considered which made it unlawful for two or more fire insurance companies doing business in the State, or their officers or agents, to make or enter into combinations or agreements in relation to the rates to be charged for insurance, and certain other matters. The provision was held invalid by the Circuit Court of the United States for the District of Iowa on the ground of depriving of liberty of contract secured by the Fourteenth Amendment and of the equal protection of the laws. This court reversed the decision, saying, after stating that there was a general statute of Iowa which prohibited combinations to fix the price of any article of merchandise or commodity or to limit the quantity of the same produced or sold in the State, "Therefore the act in question does little if anything more than apply and work out the policy of the general law in a particular case." Again, "If an evil is specially experienced in a particular branch of business, the Constitution embodies no prohibition of laws confined to the evil, or doctrinaire requirement that they should be couched in all-embracing terms." And, "If the legislature of the State of Iowa deems it desirable artificially to prevent, so far as it can, the substitution of combination for competition, this court cannot say that fire insurance may not present so conspicuous an example of what the legislature thinks an evil as to justify special treatment. The imposition of a more specific liability upon life and health insurance companies was held valid in *Fidelity Mutual Life Insurance Company v. Mettler*, 185 U. S. 308." (199 U. S. p. 411.) Other cases were also cited in illustration.

*Carroll v. Greenwich Ins. Co.*, *supra*, is especially apposite. It contains the elements of the case at bar and a decision upon them. It will be observed that the statute, which it was said declared the general policy of Iowa, was a prohibition against a combination of producers and sellers. There was the same distinction, therefore, be-

tween vendors and purchasers of commodities as in the Missouri statute and the same omission of prohibition of combinations of vendors of labor and services as in the Missouri law. The distinction and omission were continued when the policy of the State was extended to insurance companies. The law was not condemned because it went no farther—because it did not prohibit the combination of all trades, businesses and persons. We held that the omission was not for judicial cognizance, and that a court could not say that fire insurance might not present so conspicuous an example of what the legislature might think an evil “as to justify special treatment.”

We might leave the discussion with that and the other cases. They decide that we are helped little in determining the legality of a legislative classification by making broad generalizations, and it is for a broad generalization that plaintiff in error contends—indeed, a generalization which includes all the activities and occupations of life, and there is an enumeration of wage earners in emphasis of the discrimination in which manufacturers and sellers are singled out from all others. The contention is deceptive, and yet it is earnestly urged in various ways which it would extend this opinion too much to detail. “In dealing with restraints of trade,” it is said, “the proper basis of classification is obviously neither in commodities nor services, nor in persons, but in *restraints*.” A law, to be valid, therefore, is the inflexible deduction, cannot distinguish between “*restraints*,” but must apply to all restraints, whatever their degree or effect or purpose, and that because the Missouri statute has not this universal operation it offends against the equality required by the Fourteenth Amendment. This court has decided many times that a legislative classification does not have to possess such comprehensive extent. Classification must be accommodated to the problems of legislation, and we decided in *Ozan Lumber Co. v. Union County Bank*, 207 U. S.

251, that it may depend upon degrees of evil without being arbitrary or unreasonable. We repeated the ruling in *Heath & Milligan Mfg. Co. v. Worst*, 207 U. S. 338, in *Engel v. O'Malley*, 219 U. S. 128, in *Mutual Loan Co. v. Martell*, 222 U. S. 225, and again in *German Alliance Insurance Company v. Kansas*, 233 U. S. 389, 418. In the latter case a distinction was sustained against a charge of discrimination between stock fire insurance companies and farmers' mutual insurance companies insuring farm property. If this power of classification did not exist, to what straits legislation would be brought. We may illustrate by the examples furnished by plaintiff in error. In the enumeration of those who, it is contended, by combination are able to restrain trade are included, among others, "persons engaged in domestic service" and "nurses," and because these are not embraced in the law, plaintiff in error, it is contended, although a combination of companies uniting the power of \$120,000,000 and able thereby to engross 85% or 90% of the trade in agricultural implements, is nevertheless beyond the competency of the legislature to prohibit. As great as the contrast is, a greater one may be made. Under the principle applied a combination of all the great industrial enterprises (and why not railroads as well?) could not be condemned unless the law applied as well to a combination of maidservants or to infants' nurses, whose humble functions preclude effective combination. Such contrasts and the considerations they suggest must be pushed aside by government, and a rigid and universal classification applied, is the contention of plaintiff in error; and to this the contention must come. Admit exceptions, and you admit the power of the legislature to select them. But it may be said the comparison of extremes is forensic, and, it may be, fallacious; that there may be powerful labor combinations as well as powerful industrial combinations, and weak ones of both, and that the law to be valid cannot distin-

guish between strong and weak offenders. This may be granted (*Engel v. O'Malley, supra*), but the comparisons are not without value in estimating the contentions of plaintiff in error. The foundation of our decision is, of course, the power of classification which a legislature may exercise, and the cases we have cited, as well as others which may be cited, demonstrate that some latitude must be allowed to the legislative judgment in selecting the "basis of community." We have said that it must be palpably arbitrary to authorize a judicial review of it, and that it cannot be disturbed by the courts "unless they can see clearly that there is no fair reason for the law that would not require with equal force its extension to others whom it leaves untouched." *Mo., Kan. & Tex. Ry. Co. v. May*, 194 U. S. 267, 269; *Williams v. Arkansas*, 217 U. S. 79, 90; *Watson v. Maryland*, 218 U. S. 173, 179.

The instances of these cases are instructive. In the first there was a difference made between land owners as to liability for permitting certain noxious grasses to go to seed on the lands. In the second, the statute passed on made a difference between businesses in the solicitation of patronage on railroad trains and at depots. In the third a difference based on the evidence of qualification of physicians was declared valid.

In *Western Union Telegraph Co. v. Milling Co.*, 218 U. S. 406, a distinction was made between common carriers in the power to limit liability for negligence. In *Engel v. O'Malley, supra*, a distinction between bankers was sustained; and in *Provident Savings Institution v. Malone*, 221 U. S. 660, deposits in savings banks were distinguished from deposits in other banks in the application of the statute of limitations.

Other cases might be cited whose instances illustrate the same principle and in which this court has refused to accept the higher generalizations urged as necessary to the fulfilment of the constitutional guaranty of the equal pro-

tection of the law, and in which we, in effect, held that it is competent for a legislature to determine upon what differences a distinction may be made for the purpose of statutory classification between objects otherwise having resemblances. Such power, of course, cannot be arbitrarily exercised. The distinction made must have reasonable basis. *Magoun v. Illinois Trust &c. Bank*, 170 U. S. 283; *Clark v. Kansas City*, 176 U. S. 114; *Gundling v. Chicago*, 177 U. S. 183; *Petit v. Minnesota*, 177 U. S. 164; *Williams v. Fears*, 179 U. S. 270; *American Sugar Refining Co. v. Louisiana*, 179 U. S. 89; *Griffith v. Connecticut*, 218 U. S. 563; *Chicago, R. I. & Pac. Ry. Co. v. Arkansas*, 219 U. S. 453, 466; *Lindsley v. Natural Carbonic Gas Co.*, 220 U. S. 61, 79; *Fifth Avenue Coach Co. v. New York*, 221 U. S. 467; *Murphy v. California*, 225 U. S. 623; *Rosenthal v. New York*, 226 U. S. 260, 269, 270; *Mo., Kan. & Tex. Ry. v. Cade*, 233 U. S. 642.

And so in the case at bar. Whether the Missouri statute should have set its condemnation on restraints generally, prohibiting combined action for any purpose and to everybody, or confined it as the statute does to manufacturers and vendors of articles and permitting it to purchasers of such articles; prohibiting it to sellers of commodities and permitting it to sellers of services, was a matter of legislative judgment and we cannot say that the distinctions made are palpably arbitrary, which we have seen is the condition of judicial review. It is to be remembered that the question presented is of the power of the legislature, not the policy of the exercise of the power. To be able to find fault, therefore, with such policy is not to establish the invalidity of the law based upon it.

It is said that the statute as construed by the Supreme Court of the State comes within our ruling in *Connolly v. Union Sewer Pipe Co.*, 184 U. S. 540, but we do not think so. If it did we should, of course, apply that ruling here.

*Judgment affirmed.*